FOR MYSORE STATE

Home (1954) Department

R4 SERIES

G.O No. 3013

Dated 12 10 54

Mysore State

[Despatch Abstract.]

Courts: Criminal South Kanara

District: Emberzhome ... Pl. Public

Money: Irrecoverable amount

Limit OKh Ordered

3064

Ref.C.No.10673/49-MHC South Kanara District Magistrate's Office, Mangalore, dated 4-1-50

From

Janab Syed Ahmed, B.Sc., (Hons.),
District Magistrate of South Kanara

To

1. The Registrar, High Court of Judicature, Madras
2. The Secretary to Government, Home Department, Madras.

Sir,

EMBEZZLEMENT - South Kanara District - Court of the I Class Bench of Magistrates Mangalore fine accounts - Forgery and Criminal misappropriation - Brought to notice - Report to the Board of Revenue and the Accountant General, Madras - copy submitted.

Ref: This Office Ref.10673/49-MHC dated 29-12-49 to the Secretary, Board of Revenue, Land Revenue, Madras.

I enclose a copy of my report, with enclosures, for the information of the High Court and Government. Further reports will be submitted in due Course.

Yours faithfully,

For Dt. Magistrate.

Encs/4-1

Copy of Ref.10673/49-M.H.C. dated 29-12-1949 of the District Magistrate of South Kanara to the Secretary to the Board of Revenue. Land Revenue. Madras.

EMBEZZLEMENT - South Kanara District - Court of the I Class Bench of Magistrates, Mangalore - Fine Accounts - Forgery and criminal misappropriation - Brought to notice - Report.

In the course of the annual inspection of the I Class Bench Magistrate's Court, Mangalore by the Sub Divisional Magistrate Mangalore, offences of forgery and criminal misappropriation of Government moneys have come to ntoce and have been reported by the Sub Divisional Magistrate, Mangalore The persons responsible is reported to be the clerk of the Bench Court one Janab Abubaker, who is now in custody. The offences are under investigation by the plice and the accused has been placed in remand by the Sub Divisional Magistrate, Mangalore.

2. The Sub Divisional Magistrate, Mangalore is conducting a detailed clerk of the accounts of the Bench Court Mangalore to ascertain the exact amount misappropriateed and to gather all the requisite details. It is expected that the report of the Sub Divisional Magistrate will be received in a week and the police charge sheet against the accused will be filed soon after. A further report in the matter will be sent on receipt of a detailed report.

3. Copies of the report of the Sub Divisional Magistrate, Mangalore to the District Magistrate, and the Sub Divisional Magistrate's complain to the Inspector of Police, Mangalore are enclosed for information.

sd. Syed Ahmed, 29-12-49
Collector, S.K.,

Copy of Report dated 25-12-49 of the Sub Divisional Magistrat Mangalore to the District Magistrate, South Kanara, Mangalore.

CRIMINAL JUSTICE - Inspection of the Court of the I Class Bench of Magistrate Mangalore - Criminal offences - Brought to notice.

In the Court of my inspection of the records relating to fines of the I Class Bench Court, Mangalore, it has come to my knowledge that Janab Abubaker, II Clerk of that Court has committed the offences of forgery and misappropriation of Government amount consisting of fines collected in the Bench Court during the period from June 1949 to December 1949 when he was wokking in that court as head Clerk.

As orally instructed by the District Magistrate I have given a complaint to the police regarding the offences noticed so far and the concerned clerk Janab Abubaker has also been entrusted to the custody of the polce that day to get him remaneded pending further investigation. The inspection is going on and a detailed check is being done. All my staff except the Magisterial clerk has gone to Karkal for the Jamabandy of that Taluk and I have put my Magisterial Clerk on that duty. I shall try to complete the work as quickly as possible Meanwhile in view of the arrest of the second clerk of the Bench Court work in that court will suffer much. I therfore suggest that a suitable hand in place of the said Abubaker may be posted urgently.

A copy of my complaint to the police is enclosed for favour of information. The necessary records relating to these offences are retained in my office.

sd. S.U.P. Nayak,
Sub Divisional Magistrate, Mangalore.
True Copy/

Copy of Report dated 25-12-1949 of the Sub Divisional Magistrat Mangalore to the Inspector of Police, Mangalore.

CRIMINAL JUSTICE - Court of the I Class Bench of Magistrates, Mangalore - Misappropriation and forgery - complained.

In the Courts of my inspection of the records and registers relating to the fines etc. of the Bench Court, Mangalore it has come to my knowledge that the following Criminal offences of forgery and misappropriation of the Government amount have been committed by Janab Abubaker, II nd Clerk, I Class Bench Court, Mangalore (a public servant) during the period he was officiating as Head Clerk of the said Court from June 1949 to December 1949.

The following are the instances of forgery so far noticed.

I. The accused in C.C.1207/49 viz. Madhava Nayak was fined Rs.25/- and in default to undergo S.I. for seven days on 5-11-49 (vide register No. 3) But in the fine register relating to that period the figure 25 has been altered to 5. The said entry is not supported by the initials of the Magistrate. Hence it is shown that a sum of Rs.5/- only has been brought to demand. Only a sum of Rs.5/- is shown as credited to Government.

II. In C.C.1282/49 the accused Thimmappa Alva was fined Rs.2/- and in default to suffer S.I. for two days. He was also directed to pay in addition Rs.2-8-0 as license fee. It is seen from the fine register that the said sum of Rs.2-8-0 written in Col. 7 of the register has been erased as also the collection entry in col. 9. Thus a sum of Rs.2-8-0 has not been accounted for. The judgement in this case was delivered on 11-8-1949.

III. In C.C.Nos. 1448,1450,1451 and 1452 of 1949 the accused were fined Rs.15/- (Rupees fifteen only) each along with the accused in C.C.1447/49 and 1449-49 on 29-8-49. The corrections and over writings converting the figures from 15 to 10 in each (first four cases) have been remitted to the Treasury in challan No.1246/16-9-49. It is seen that the figures in col. 9 under collection have been erased and re-written.

IV. 3-9-49 In C.C.No.1417/49 the accused Anchuthi Beary was fined Rs.25/-(Rupees twnety five). The entry relating to the fine imposed has been tampered with the corrected into Rs.10/- ~~in each case (first four cases) have been remitted to the Treasury in challan No.1246/16-9-49. It is seen that the figures in col. 9 under collection have been erased and re-written~~ and the amount of Rs.10/- only has been credited to treasury thereby misappropriating a sum of Rs.15/-

V. 8-9-59. InC.C.1514 and 1515 of 1949 the fine of Rs.10/- each awarded to the accused has been corrected (by rubbing) into Rs.5/- each in the demand column (4) and the fine at Rs.5/- in each case has been credited, thus involving a misappropriation of Rs.10/- in both the cases together.

VI. On 17-9-49. The accused in C.C.No.947/49 viz. Demi alias Pascal Sousa was fined Rs.15/- and in default to suffer S.I. for seven days. In the judgement it is stated that a sum of Rs.5/- was paid by the accused that day. This amount is not accounted for. Again in the judgement in respect of C.C. 1194/49,1196/49,1198/49 and 1327/49; it is stated that the fine amount of Rs.5/-, Rs.25/-, Rs.5/- and Rs.20/- respectively have been collected from the accused on that day (17-9-49). These amounts have not been omitted. The pages in the fine registers in respect of these items are not forthcoming.

P.T.O.

VII. While totaling up the amounts in challan Trial No. 85186 dated 26-10-49 the amount comes to Rs.64-8-0, while in the corresponding counterfoil bearing Ch. No.216 dated 26-10-49 of Mangalore Sub Treasury the total amount remitted is only Rs.34-8-0. In the counterfoil the fine relating to C.C.No.1968/49 and 1969/49 have been corrected and overwritten converting the amount Rs.15/- and Rs.25/- respectively, thus involving a misappropriation of Rs.30/- in all.

MISAPPROPRIATIONS . In 17 cases fines collected amounting to about Rs.172/- have not been remitted. These entries are supported by the handwriting of the said clerk though not attested by the President.

The fines amounts collected in 102 items dating from 25-7-49 to 31-10-49 and amounting to about Rs.413-8-0 have not been credited to the Treasury even though the receipt entries have been attested by the President It is seen that they have been collected but not credited to the treasury by the head clerk who is the custodian of the fines collected and whose duty it is to credit the amount to the treasury.

Under the instructions for the working of the Bench Court Head Clerk is the custodian of all fines and compensations collected and he is the person responsible for proper remittance of the amounts collected. From the forgoing instances it is seen that the head clerk. viz. the above named Janab Abubaker has misappropriated the amounts referred to above by tampering with the entries in and falsification of Government records thereby committing offences of forgery and criminal misappropriation by a public servant.

The inspection is continuing and further investigation is in progress but in the mean while it is feared that the clerk might disappear and it may be difficult to get at him afterwards. It is therefore requested that a F.I.R may be registered against the clerk and he may be taken into custody and not remanded pending further investigation and laying of the final chargesheet by the police.

Sd. S.U.P. Nayak
Sub Divisional Magistrate.

/True Copy/

Princes
5-1-50
for DM

Home Dept

Please see the letter from the D.M, South Kanara on p-1 ante and the further report promised by the D.M. may be awaited (R.D. 10.2.50)

2. May be sent to Finance for perusal

C No. 3064 D/50

Examine

6941 16-1-50

10.1.50.

PD 10.1.50

Hal 10/1/50

Fin (Accts)

May be perusd.

Home D 3064 D/50 10.1.50

ADDITIONAL DEPUTY S... 2674 17 JAN 1950 FINANCE DEPARTMENT

Asst

12.1.50

14/1/50

CSK 17/1/50

Home Dept

Subd. for perusal. The further report promised by the D.M may be awaited (R.D. 10.2.50)

Fin D 2674 Accts/50 12.1.50

Hal 19/1/50

ASSISTANT SECRETARY TO GOVERNMENT 16 JAN 1950 HOME DEPARTMENT

19.1.50.

19/1/50

Home Dept.

Memo. No. 3064. (Courts II)/50-I Dt. 17-2-50.

Embezzlement - South Kanara district. Court of the first class Bench of Magistrates Mangalore - fine accounts - forgery and Criminal misappropriation.

Ref:- From the D.M, South Kanara Ref. C.No. 10673/49-MHC. Dt/ 4-1-50.

The D.M, South Kanara is ~~referred~~ requested to state ~~to the letter cited and is~~ when the further reports referred to in the letter cited ~~/ as the above subject~~ may be expected.

To
The D.M, South Kanara

16.2.50.

Ref.10673-49.MHC. South Kanara District Magistrate's Office, Mangalore.d.27.2.1950

PR — 3064
27-3-50
1/3

From

Janab Syed Ahmed B.Sc.,(Hons.),
District Magistrate of South Kanara,
M a n g a l o r e.

To

The Secretary,
Board of Revenue,
Land Revenue,
M A D R A S.

Sir,

EMBEZZLEMENT: (South Kanara) -Court of the I.Class Bench Magistrates, Mangalore - Fine accounts - Forgery and criminal misappropriation - Further report.

Ref:Board's Ref.C.58/49-1.d.16.1.50. — n Y

SECRETARY TO GOVERNMENT
1-MAR.1950
HOME DEPARTMENT

A sum of Rs.420/- being a part of the amount misappropriated by the accused clerk was produced by him before the police at the time of his arrest. This amount is now in Court. This may be ordered to be adjusted towards the money eventually determined to have been misappropriated by him. The Police investigation into the misappropriation case has not been completed and only a provisional charge-sheet is reported to have been laid. The balance due to Government will be ascertained and reported on receipt of a report from the Sub Divisional Magistrates, Mangalore on completion of the police investigation.

2. The forgery and misappropriation in this case would not have taken place but for the slackness and negligence on the part of the President and vice-president of the Bench Court, who appear to have entirely disregarded the instructions in Rule 316 of the Criminal Rules of Practice, and left the cash and the accounts with the clerk. This failure on their part is directly responsible for the misappropriation. I am calling on the President and the Vice-president to show cause why the misappropriated amount should not be recovered from them. Before doing so, I consider that the police investigation should be completed and the final charge-sheet laid against the accused. A separate report will be submitted in the matter.

3. The misappropriation seems to have been facilitated by the practice which existed in the Bench Court, to permit the Head Clerk of the Court to keep the fine and cash in his custody, pending remittance to the Sub Treasury, Mangalore. This appears to have been in vogue, although it is against the instructions in Rule 316, Criminal Rules of practice. In M.L.Dis.2075/35, dated 10.6.1935, the then District Magistrate, directed that "this system could continue, ..to

Ref.10673-49.MHC. South Kanara District Magistrate's Office, Mangalore.d.27.2.1950.

Pr — 3064
3NO
1/3

From

Janab Syed Ahmed B.Sc.,(Hons.),
District Magistrate of South Kana
M a n g a l o r e.

To

The Secretary,
Board of Revenue,
Land Revenue,
M A D R A S.

Sir,

EMBEZZLEMENT: (South Kanara) -Court of the I.Class Bench Magistrates, Mangalore - Fine accounts - Forgery and criminal misappropriation - Further report.

SECRETARY TO GOVERNMENT
1-MAR-1950
HOME DEPARTMENT

Ref:Board's Ref.C.58/49-1.d.16.1.50. — n Y

A sum of Rs.420/- being a part of the amount misappropriated by the accused clerk was produced by him before the police at the time of his arrest. This amount is now in Court. This may be ordered to be adjusted towards the money eventually determined to have been misappropriated by him. The Police investigation into the misappropriation case has not been completed and only a provisional charge-sheet is reported to have been laid. The balance due to Government will be ascertained and reported on receipt of a report from the Sub Divisional Magistrates, Mangalore on completion of the police investigation.

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it being understood that the President and the Vice-president were responsible for the fine money until it had been credited into the Treasury". The President and Vice President, cannot take refuge under this permissive order to answer the charge of omission on their part to see that to the final accounts and cash from day to day. The responsibility is theirs until the money is properly remitted to the Treasury, and they cannot evade it, and continue in their office as Hon. Magistrates. But this practice of entrusing the clerk with cash and accounts has to be ended, lest such offences shouldbe repeated. I am examining the question how best the system could be improved, and responsibility firmly laid on the appropriate officer. I shall examine the proposals of the Sub Divisional Magistrate, Mangalore (copy of his letter enclosed for information) and submit a report as soon as possible.

Yours faithfully,

For Dt.Magistrate.

LV.27.2.
Encd:1.

Copy submitted to the Secretary to Government, HomeDepartment, Madras with reference to memo No.3064 (Courts II) 50-1 dated.17.2.1950. Further reports will be submitted in due course.

Home (Courts II) dept.

Please see the further report from the D.H. South Kimberley on pp 9-11 ante. The reports referred to at I X on p 11 ante may be omitted (K.D. 30. 3.50)

3/3/50

3/3/50

Memo. No 3064 (Courts II) 50 - 2 Dt. 4.4.50

Embezzlement - South Kanara district - Court of the first class Bench of Magistes, Mangalore - fine accounts - forgery and criminal misappropriation.

Ref:- Memo No 3064 (Courts II) 50-1 Home Dt/ 17.2.50. from the D.M, South Kanara Ref. 10673-49 MHC. Dt/ 2.2.50.

The D.M, South Kanara is requested to state when the further reports referred to in the letter cited may be expected

to D.M, South Kanara

ASSISTANT SECRETARY TO GOVERNMENT
23 APR 1950
HOME DEPARTMENT

C.No. 10673/49-MHC.

South Kanara District Magistra
Office, [illegible] dated 20-4-50

Jan.b Syed Ahmed, B.Sc., (Hons.),
District Magistrate, South Kanara.

To

5A034
The Secretary to Government,
Home Department, Fort St.George,
Madras 9.

Sir,

EMBEZZLEMENT - (South Kanara) - Court of the I Class Bench of Magistrates, Mangalore - Fine accounts - Forgery and Crl. Misappropriation - Further report submitted.

REF:- (1)This office Ref. 10673/49-MHC dated 27-2-50
(2)Government Memo No.3064/(courts) II/50-2 dated 4- 4- 1950.

In continuation of this office letter cited, I submit that the Police investigation into the misappropriation case has not yet been completed. The District Superintendent of Police South Kanara who was addressed in the matter writes that there are about 700 witnesses to be examined in the Police investigation, and that it might take about a month more to complete the investigation and to file the final charge-sheet in the court. His letter is dated 9-4-50. I have again written to him to cause the work to be expedited. The exact loss involved and the sum to be re-imbursed will be ascertained and reported soon after the final charge-sheet is received.

2/- For the same reason, the proposal referred to in this office reports cited in para 2, namely to call on the President and Vice President to make good the loss caused to Government, will be taken up after the Police charge sheet is received.

3/- A further report will be submitted soon after reports are received from the District Superintendent of Police and the Sub Divisional Magistrate, Mangalore.

Yours faithfully,

For Dt. Magistrate.

Copy to the Assistant Registrar Appellate side, High Court Madras with reference to R.O.C.No.220/1950 D1 dated 8-4-50
Copy to the Sub Divisional Magistrate, Mangalore.

VR/20-4-50

Home (Courts II) Dept.

Subd for perusal. The further report promised in para 3 above may be awaited (R.D. 25.5.50)

Home Dept.

2252/13/6

C. N. 3064 Court I/50

Memo no. 3064 Ch I/50-4 date 13.6.50

Embezzlement - South Kanara district Court of the first class Bench of the Magistrate, Mangalore - nine accounts forgery and criminal misappropriation Taluk report

p 15 cf

Ref. from the D.M. South Kanara Ref C.N. 10673/49 M.H.C.D/20.4.50

The D. M. South Kanara is requested to state when the further report referred to in the letter cited may be expected

cf para 3 on p 15 cf

14/6/50

To.

The D.M. South Kanara.

(N.R. of 11.7.50)

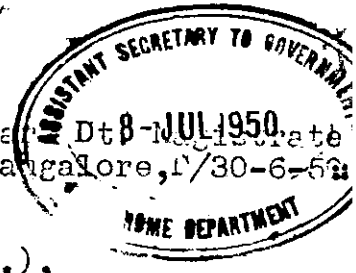
11/6/50

11.6.50

12/6/50

Ref.C.No.MHC 10673/49

South Kanara District Magistrate
Office, Mangalore, Dt/30-6-50



From

Janab Syed Ahmed, B.Sc.,(Hons.),
District Magistrate of South Kanara.

To

The Secretary to Government, Home Department,
Fort St. George, Madras 9

Sir,

EMBEZZLEMENT - South Kanara District - Court of the first class Bench of Magistrates, Mangalore - Fine Accounts - Forgery and Criminal misappropriation

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Reference: Government Home Department Memorandum No.3064 Courts II/50-4 dated 13-6-50

The Police have filed final charge sheet against the accused in this case on three courts for a total sum of Rs.60/- only. The Dt. Superintendent of Police has already reported that the investigation of this case involves the examination of 700 witnesses. I request time till 31-7-50 for final report.

Yours faithfully,

For Dt. Magistrate

Copy to the Secretary, Board of Revenue, Land Revenue, Madras.

ks/6-7

17

Home (South II) Dept

Please see the letter from the D.M. South Kanara on page 17 ante. The final Report referred to at A on page 18 ante may be awaited. (R.d 31.7.50)

17/7/50

17.7.50

18.7.50.

M. 3064 Courts II/50. 28/14/8

Memo no. 3064 Cts II/50-5 dated 14.8.50. Embezzlement - South Kanara district - Court of the first class Bench of Magistrates, Mangalore - Fine accounts - Forgery and Criminal misappropriation

Ref. from the D.M. South Kanara Rc no M.H.C. 10673/49 dt 30-6-50

Cp A on p 17 of

The D. M. South Kanara is requested to ~~state when~~ expedite the final report referred to in the letter cited ~~may be expected~~.

12/8/50.

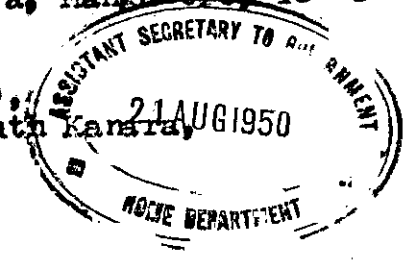
14.8.50

The D. M. South Kanara. (R.d. 1.9.50).

12/8/50.

Ref.M.H.C. 10673/49.

Office of the District Magistrate,
South Kanara, Mangalore, 18- 8- 1950.



From

Janab Syed Ahmed B.Sc. (Hons.),
District Magistrate, South Kanara,
Mangalore.

To

The Assistant Registrar,
Appellate Side,
High Court, Madras.

117988

Sir,

Embezzlement: South Kanara District - First Class Bench Magistrate's Court, Mangalore - Misappropriation of - fines realised.

Ref: Your letter No. 220/50 D1. dated 12- 8- 1950.

The accused clerk has been charged before the Sub-Divisional Magistrate, Puttur for criminal breach of trust in respect of three items involving a sum of Rs.60/-. As the case involves the examination of nearly 700 witnesses, the police investigation has not yet been completed. I am requesting the District Superintendent of Police to speed up the matter. I shall send a further report on 5- 9- 1950.

S.S. Ahmed 18/8/50
District Magistrate.

Copy to the Secretary to Government, Home Department, Fort St.

George, Madras -9.

Copy to the Secretary, Board of Revenue, Land Revenue, Chepauk, Madras - 5.

Home Deptt

The copy of the interim report of the D.M. South Kanara at p. 22 ante is sent for perusal. addressed to the High Court.

The receipt of the further report promised may be awaited (C.R.D. 15.9.50)

22/8/50

28/8/50

R.O.C.No.MHC. 10673-49. South Kanara Dt.Magte's.Office,
Mangalore, dated: 30-9-1950.

From

Janab Syed Ahmed, B. Sc.(Hons.),
District Magistrate of South Kanara.

To

The Assistant Registrar,
Appellate Side, High Court, Madras -1.

Sir,

EMBEZZLEMENT - Forgery and Criminal Misappropriation - Abubaker, Clerk, I Class Bench Magistrate's Court, Manga-lore - Further report.

Reference: This office correspondence resting with Ref.C.No. 10673/49-MHC. dated 18-8-1950.
(ii) Your R.O.C.No.220/50-D1, dated 25-9-1950.

I enclose a copy of the Judgment dated 18-9-1950 in C.C. No.68/1950 on the file of the Sub-Divisional Magistrate, Puttur for favour of perusal.

2. The Sub-Divisional Magistrate, Puttur has held that the accused is guilty of the offence with which he stood charged and sentenced him to undergo rigorous imprisonment for three months and to pay a fine of Rs 500/- or in default to suffer further rigorous imprisonment for two months on each of the charges, the sentence of imprisonment to run concurrently and the total amount of fine payable being Rs 900/-.

3. In the course of the judgment, the Sub-Divisional Magistrate also observed that "no doubt the lamentable absence of supervision by the President or other authorities concerned facilitated the crime.

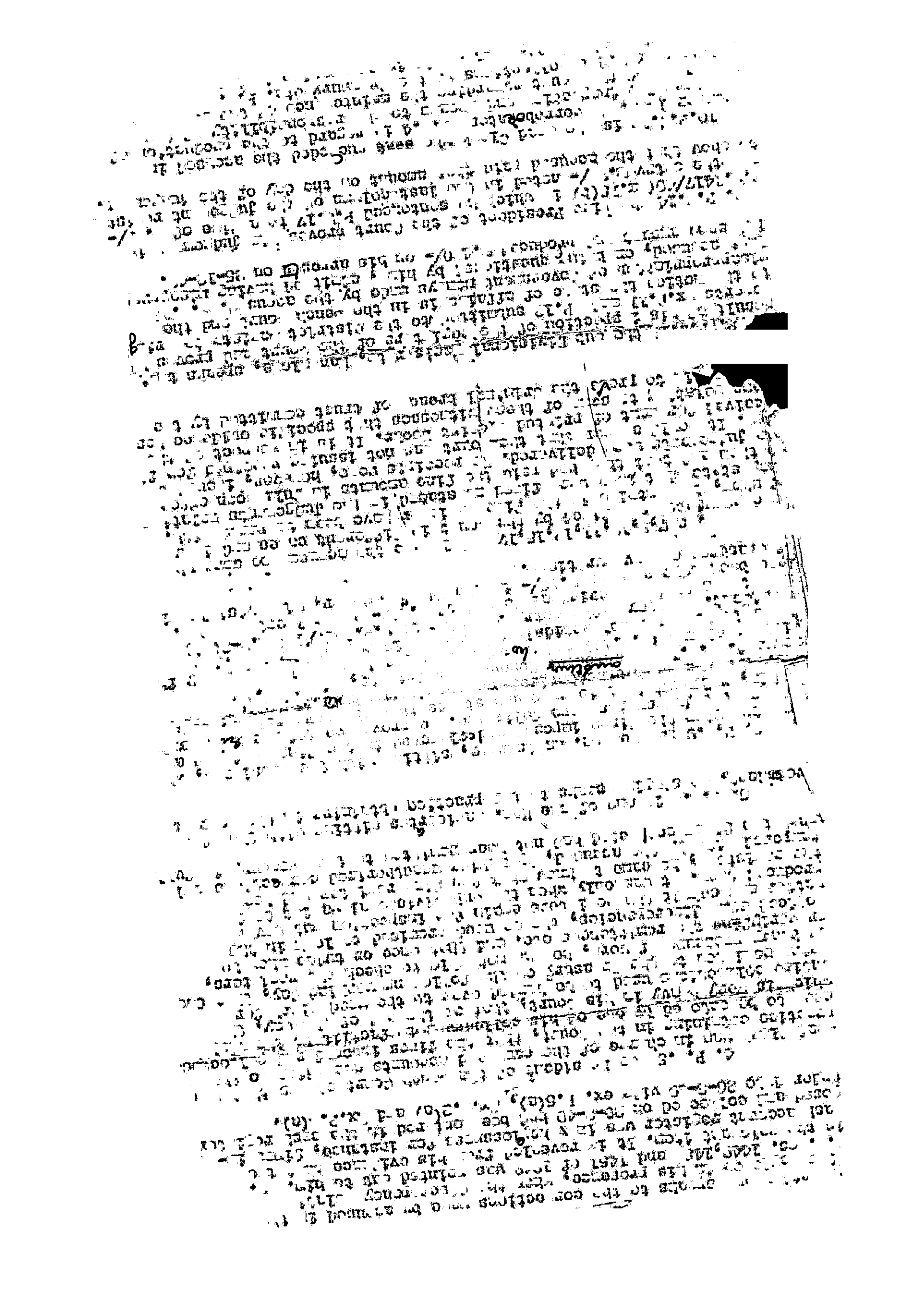
4. I am directing the Sub-Divisional Magistrate, Manga-lore to expedite his final report regarding (1) the recovery of the balance of the amount criminally misappropriated, (2) taking action against the persons responsible for facilitating the commission of the crime through their slackness or negligence and (3) regarding the suggestion for amending relevant rules in order to prevent the recurrence of the crime. I shall submit my report on the above points as soon as possible.

Yours faithfully,

For Dt. Magistrate.

MES/3-10.
Compd.

Copy submitted to the Secretary to the Government, Home Depart-ment, Madras,-9, with a copy of the judgment with refer-ence to Government Memo No.3064 Courts II/50-5 dated 14-8-195[illegible]
Copy with a copy of the judgment submitted to the Secretary to the Board of Revenue, Madras -5, with reference to Board Ref.C.No.68/49-1 dated 16-1-1950 and 13-5-1950.
Copy with a copy of the judgment forwarded to the Sub-Divisional Magistrate, Mangalore (by name) for urgent submission of the reports called for in this office R.O.C.No.10673/49-MH[illegible] dated 28-1-1950 and 3-5-1950, etc.



11. The accused had examined in detail regarding the various circumstances appearing in evidence against him. He denied having committed misappropriation of money, but admitted that he had committed mistakes in writing up the registers due to inexperience.

12. As suggested by the Asst. Public Prosecutor three specific instances of misappropriation were selected from the several items brought out in evidence and charges were framed on three counts under section 409 I.P.C. read over the explained to the accused. Pleading not guilty, the accused wanted to further cross examine all the prosecution witnesses. Before the framing of the charges, accused's lawyer was watching the case in court and had not cross examined any of the witnesses.

13. On 13-9-50, the day fixed for the further cross-examination of prosecution witnesses, the lawyer appearing for the accused reported no instructions in the case and accused presented a petition stating that he had no further cross examination for any of the Prosecution Witnesses or any defence on his behalf and that on reconsideration, he pleaded guilty to the charges framed against him. When further examined he repeated the above statement and pleaded guilty to the charges.

14. The following is the gist of the evidence relating to each charge and my findings thereon.

Charge I: This relates to the fine imposed in C.C.No.1440/49 on Bala Pujari. The judgement (Ex.P.5(a) shows that the accused Bala Pujari was fined Rs.10/- and this is proved by P.W.5 the President of the Court, P.W.9 the Honorary Magistrate who wrote the entries in the Fine Register saying that he correctly wrote the fine register showing Rs.10/- as the fine imposed and Rs.10/- as the amount collected in the appropriate column and that the entries were found correct. Rs.10/- in both the columns of demand and collection have been cut and altered to Rs.20/- in the amount column without authority erasing the relevant figures. There is the further evidence of P.W.4 that when he pointed out the discrepancy between the judgement and the entry in the Fine Register, he immediately corrected the demand column by converting the figure 10 into 20 and affixing his initials. This borne out by the entry marked Ex.P.6(a). The figure in the column of collection however remains as Rs.10/-. The challan (Ex.P.10(a)) and Ex.P.3 (b)) show that only Rs.10/- were remitted to the Sub Treasury as fine collected in C.C.1440/49. Though the original of the challan (Ex.P.10(a)) is seen to have been written on 20-8-49, the amount was actually remitted on 18-8-49 as evidenced by the challan receipt Ex. P.-10(b). Thought Bala Pujari, the accused in C.C.No.1440/49 has not been examined as a witnesses in this case, the evidence described above together with the general evidence of P.W.5 and others that the fines realized were duly handed over to the accused at the end of the day for being remitted into the Try. on the following working day clearly proves that the accused having received the fine amount of Rs.15/- on 20-8-49, remitted Rs.10/- and thereby committed criminal breach of trust in respect of the balance of Rs.5/-. The accused has also pleaded guilty to the charge. I therefore find him guilty and convict him of the charge.

15. Charge II: This relates to the fine collected in C.C.No.1417/49 from Andunhi Beari (P.W.17) on 3-9-49. The judgments (Ex.P.5(b) shows that the Andunhi Beari was fined Rs.25/- by the Vice President (P.W.14) who proves it. The Vice President has as he usually does, noted the figures Rs.20/- in the last column of Ex. P.6(b) indicating the amount collected. P.W.16 proves that he had correctly noted in the fine register the fine imposed and the amount collected as Rs.25/- and Rs.20/- respectively. The relevant entries (Ex.P.2(b) in the Fine register are now seen to be Rs.10/- in both the columns with visible marks of erasure and overwritings. P.W. 7 has however deposed that he had written the full amount of Rs.25/- to the accused. This may be true or may be a mistake due to forgetfulness. But the remittance

challans (Ex.P.9(a) and P-9(5) show that only Rs.10/- more remitted to the Treasury on 5-8-49 as realised from the accused. There is no doubt that a sum of at least Rs.10/- was misappropriated by the accused. The accused has pleaded guilty to the charge. I find him guilty and convict him of it.

Charge:- III. This charge relates to the fine amount collected in C.C.1514/49 from P.W.11 Somappa pujari on 5-8-49. The judgement (Ex. P.5-(g) shows that P.W.11 was sentenced to a fine of Rs.10/- on 5-8-49 by the President who proved it. P.W.9 states that he correctly entered the fine amount in the fine register as Rs.10/- imposed and Rs.10/- collected. The relevant entry is Ex.P-3(c)- But the entries now show that both the demand and collection was only Rs.5/- and bear visible marks of the original entries having been tampered with. P.W.11 has sworn that he paid Rs.10/- as soon as the judgement was delivered. The relevant chalan receipt (Ex. (d) shows that only Rs.5/- was remitted to the Treasury on 8-8-49 the fine collected in the case. The offence of criminal breach of trust under section 409 IPC in respect of the balance of Rs.5/- is clearly proved by the above evidence coupled with the general evidence of P.W.9 and others. ~~The accused has pleaded guilty, evidence is not necessary.~~ The accused has pleaded guilty to this charge and I find him guilty and convict him of it.

16. The accused is a young man aged 25 years. His conduct as revealed from the evidence adduced in the case shows that he was systematically misappropriating small sums of money of the fine collections handed over to him at the end of each day for being remitted to the Treasury and that in order to conceal this nefarious act, he had recourse to tampering with the entries made in the fine registers by the Honorary Magistrates of the Court. The total amount misappropriated has been ascertained to be about Rs.1220/-. It is in evidence that the accused was spending lavishly during the period. No doubt the lamentable absence of supervision by the President or other authorities concerned facilitated the crime but the accused is not the less guilty on that score of the offences committed by him. More experience in the work would have only led to some irregularities without involving any variations in the amounts collected and actually remitted. Here, the dishonest misappropriations are clearly made out and there are no mitigating circumstances except that with more supervision at least at short intervals, the accused would have been prevented from carrying on his dishonest activities much earlier.

16. In the result, I sentence the accused to undergo Rigorous Imprisonment for three months and to pay a fine of Rs.900/- or in default to suffer further Rigourous imprisonment for 2 months on each of the charges, the sentence of imprisonment to run concurrently and the total amount of fine payable being Rs.900/

Pronounced in Open Court.

sd. M.Narasimha,
dated 18-8-50.
Sub Divisional Magistrate.

IN THE COURT OF THE SUB-DIVISIONAL MAGISTRATE, PUTTUR.

Judgment in Calendar Case No. 60/1950 on the file of the Sub-Divisional Magistrate, Puttur.
Dated: 18th Day of Septem.1950.

Present: Sri H. Narasimha.

***

Complainant.	..	REX (Charge Sheet in D.2 Mangalore Mangelore Station - F.I.No. 235/1949).
Accused.	..	Abubaker.
Offence.	..	Criminal breach of trust - Section 409 I.P.C.
Finding.	..	Guilty.
Sentence.	..	To undergo rigorous imprisonment for three months and to pay a fine of Rupees three hundred on each of the three counts, in default to suffer further rigorous imprisonment for two months on each count. The substantive sentence to run con-current ly.

Description of the Accused:

Ser. No.	
2.	Name: Abubaker.
3.	Father's name: Keniel Hammunhi.
4.	Caste or race: Moplah.
5.	Occupation: Ex-clerk of the First Class Bench Court, Mangalore.
6.	Residence: Kumbla.
7.	Age: 25 years.

S.No.	Date of:	Explanation of de
8.	Occurrence: 29-8-49, 3-9-49, 5-9-49	Accused is com-mitted to Cen-tral Jail, Cannanore.
9.	Complaint: Records received on 5-6-50.	
10.	Apprehension of appearence: 13-6-50	
11.	Release on bail: 13-6-50.	
12.	Commencement of trial: 22-7-50.	
13.	Close of trial: 13-9-1950.	
14.	Sentence or order: 18-9-1950.	

Sd/ H. Narasimha,
18-9-1950
Sub-Divisional Magistrate.

P.T.O.

Appendix:

Witnesses examined for:

Prosecution:	Defence:
1. Gangadara.	Nil.
2. Sheene.	
3. Sri Srinivasa Ballal.	
4. Sri Hiriamna Bhatta.	
5. Sri S. Shanker Alva	
6. Sri R.G.Ubhaya.	
7. Dasa Koolya.	
8. Baleppa.	
9. Sri Chennappa.	
10. Bejmi @ Pascue Souza.	
11. Somappa Poojari.	
12. Kenthappa Poojari.	
13. Sri S.U.P.Nayak.	
14. Sri M.Venkatesh Pai.	
15. Sujir Vaman Naik.	
16. Sri Krishnappa Thingalaya.	
17. Andunhi Beary.	
18. Chandu Mukalthy.	
19. Manjanna Alva.	
20. Sri B. Amritha.	

EXHIBITS FILED FOR: Prosecution:

P.1	30-4-1949 to 14-7-49.	Fine Register.
P.2	14-7-1949 to 15-8-49	Fine Register.
P.2.(a)	20-8-1949	Entry in Ex.P.2.
" (b)	5-9-1949	Entry in Ex.P.2.
" (c)	6-9-1949	Entry in Ex.P.2.
P.3.	15-9-1949 to 26-X-1949	Fine Register.
P.4	31-10-'49 to 22-12-'49	Fine Register.
P.5.	26-7-49 to 28-10-'49	Register of Summary Trials.
P.5(a)	29- 8-'49.	Entry in Ex.P.5.
P.5(b)	5- 9-'49.	Entry in Ex.P.5.
P.5(c)	17- 9-'49	Entry in Ex.P.5.
" (d)	17- 9-'49	
" (e)	17-9 -'49	
" (f)	17- 9-'49	
" (g)	6- 9-'49	
P.6	28-9-1949 to 7-12-1949	Register of Summary Trials.
P.7.		Working sheet.
P.8.	21-4-49 to 12-9-1949:	Cash Register.
P.8(a)	26-8-49.	Entry in Ex.P.8.
" (b)	20-8-49.	-Do-
" (c)	2-9-49.	-Do-
" (d)	10-9-49.	-Do-
" (e)	12-9-49.	-do-
P.9.	..	Fine Remittance Book.
P.9(a)	20-8-49.	Original Receipt.
" (b)	6-9-49.	Treasury Receipt.
" (c)	2-9-49	Original receipt.

P.T.O.

3064(4)II/50
D

-A-

Prosecution (Contd.).

Ex. P.9 (d)	8- 9-1949.	Treasury receipt.
"10.	..	Fine Remittance Book.
" 10(a)	20- 8-1949.	Original receipt.
" 10 (b)	16- 9-1949.	Treasury Receipt.
" 10 (c)	12-10-1949	Original receipt.
" 10 (d)	26-10-1949.	Treasury receipt.
" 11.	25-12-1949.	Preliminary Report.
" 12.	28-1- 1950.	Final Report.
" 12(a) to 12(d)	-do-	Final Report.
" 12(e)	-do-	
" 13.	25-12- 1949.	F.I.R.
" 13 (a)	-do-	Entry in Ex.P.13.

Defence: Nil.

Material Objects.

Nil.

Sd/ H. Narasimha,
10-9-1950.
Sub-Divisional Magistrate.
/True copy/

Sd/ H. Narasimha,
24-9-1950
Sub-Divisional Magistrate.

Home (Cel II) dept.

The copy of letter from the D.M. South Kanara on p 33 ante addressed to the High Court and enclosure to be sent for perusal. The receipt of the further report referred to in para 4 of his letter on p 33 ante may be awaited. (R.d. one month

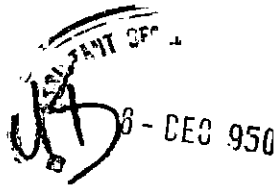
para 4 on p 33 ante

31/10/50

1.11.50

41

R.O.C. No. 220/50-D1.



From

Sri V. Krishnaswami, B.A., B.L.,
Assistant Registrar, Appellate Side,
High Court, Madras.

To

The Secretary to Government,
Home Department, Fort St.George,
MADRAS. (with enclosure).

184286
6/12/50

Dated the 4th December 1950.

Sir,

Sub: Embezzlement - Forgery and Criminal Misappropriation - Abu Baker, Clerk, 1st Class Bench Court, Mangalore (South Kanara District) - Further report sent.

I am to forward a copy of the letter Ref.C.No.10673/49-MHC dated 23-11-1950 from the District Magistrate, South Kanara, on the subject cited.

V. Krishnaswamy 5.12.50

Assistant Registrar,

Appellate Side.

tmv.

Copy of letter Ref.C.No.10673-49-MHC, dated 23-11-1950, from the District Magistrate, South Kanara, Mangalore, to the Assistant Registrar, Appellate Side, High Court, Madras.

Sir,

EMBEZZLEMENT - Forgery and Criminal Misappropriation - Abu Backer, Clerk, I Class Bench Court, Mangalore - Further report

---

The charge sheet in the case against Abu Backer, Clerk, I Class Bench Court, Mangalore in C.C.No.68/50 on the file of Sub Divisional Magistrate, Puttur is only in respect of three items involving a sum of Rs.60/- only. The Police investigation in respect of the remaining items was not taken up as it was impossible to conduct such a lengthy investigation where 700 witnesses are involved, within the time allowed. In the absence of receipts granted to parties who paid the fines and certain pages of fine register done away with by the clerk, it may not be possible to find out the exact amount that has been collected by the Court. I have therefore directed the Police to conduct investigation in respect of the remaining items also. The Police investigation is not complete. I shall submit my final report after the completion of this investigation.

Yours faithfully,
(Sd.) . . . . .
for District Magistrate.

(True copy)

Sub Assistant Registrar,
Administrative Department,
High Court, Madras.

tmv

Pt 3.

Home (Cts II) Dept.

The letter from the High Court on page 41 together with its enclosure on pages 41-42 ante may be submitted for perusal. The final report of the D.M. South Kanara regarding the at W on page 42 ante may be awaited. (R.d. on receipt)

6/12/50

7.12.50.

8/12/50

C. N. C - 64 Ch II/50.

Home dept

50/22/1

Memo no. 3064 Ch II/51-1 dated 22.1.51

Re: Embezzlement - South Kanara dt Account of the First Class Bank of Mapts, Mangalore - Fine accounts Forgery and criminal misappropri

---

Ref:- From the D.M. South Kanara Rf. C. 10673-49. M.H.C. D/ 23-11-50

The D.M. South Kanara is requested to state when the final report referred to in the letter cited may be expected.

for
21.1.51

To. The D.M. South Kanara. (C.R.D. 19-2-51).

19/1/51.

19.1.51

Ref.C.No.MHC.10673/49- S.Kanara Dt.Magistrate's Office Mangalore dated 1.2.51.

3-FEB 951 GOVERNMENT

From

SHI A.R.RaJARaTHAM,B.A
Dt.Magistrate of South Kanara.

To

The Secretary to Government,
Home Department,
Fort St. George Madras 9.

Sir,

22356

EMBEZZLEMENT: South Kanara district--court of the I class Bench of Magistrates, Mangalore--fine accounts- forgery and criminal misappropriation.

Ref: Government Home department Memo No.3064/Courts/II/51-1 dated 22.1.51.

--

The reference is pending with the District Superintendent of Police South Kanara. He has been reminded. I shall submit my report as soon as I receive the District Superintendent of Police's report.

Yours faithfully,

For Dt.~~Magistrate~~. 1.2.51

Copy to the Dt.Superintendent of Police in continuation of this office ref.C.No.10673-49-M.C dated 19.1.51 for expediting the report.
IC/1.2.51.

Home (Cts 4) Dept. Submitted for perusal. [illegible] 6.3.51

Ref.M.H.C.10673-49.

S.Kanara Dt.Magistrate's Office,
Mangalore dated 6.3.51.

From

SRI A.R.RAJAMANNAR,B.A.
Dt.Magistrate of South Kanara.

To

045182

The Assistant Registrar,
Appellate Side,
High Court, Madras.

Sir,

EMBEZZLEMENT: Forgery and criminal misappropriation- I class Bench court, Mangalore--clerk Abu Baker.

Ref: Your ROC.No.220/50-D1 dated 14.2.51.

**

The matter is pending with the Sub Divisional Magistrate, Mangalo: I have requested him to send a detailed report on all the items of misappropriation committed by the ex clerk Janab Abu Baker. My report will be submitted as soon as his report is received.

Yours faithfully,

For Dt.Magistrate.

Copy submitted to the Secretary to Government, Home department, Madras (Government Memo No.3064 Courts II/51-1 dated 12.1.51.)
Copy submitted to the Secretary to the Board of Revenue (Land Revenue) Madras (Board's Ref.C58/50-4 dated 15.11.50)
IC/7.3.51.

C.N. 3054 dis II/50.

Home Dept:

Memo no. 3064 dis II/50-6 Dated 17/4/51

Embezzlement - South Kanara district - Court of the First Class Bench of Magistrate Mangalore - Rice accounts - Forgery and criminal misappropriation.

Ref:- From the D.M. South Kanara Rlf. A. H.C. 1067/B/49 D/ 6-3-51.

The D.M. South Kanara is requested to state when the final report referred to in his letter cited, may be expected

Dpd. 18/4.

13/4/51. 13.4.51.

K.4.51

To.

The D.M. South Kanara.

~~(Confd. 15-5-51).~~

~~Copy to the Board of Revenue, Madras.~~

(N.R.D. 15-5-51)

URGENT.
Ref.M.H.C.10673-49.

S.Kanara Dt.Magistrate's Office,
Mangalore dated 16.4.51.

48

From

SRI A.R.RAJARATNAM,B.A.
Dt.Magistrate of South Kanara.

To

The Sub Divisional Magistrate
Mangalore.

Sir,

21 APR

EMBEZZLEMENT: I class Bench court Mangalore--forgery and misappropriation by ex-clerk--action.
Ref: 1.My Ref.MHC.10673-49 dated 5.3.51.
2.Your Ref.C.No.7449-49-C dated 27.3.51.

***

Please take further action as indicated below:

PARA 3 OF YOUR REPORT: Please issue notices to the President and the Vice President as suggested by you.

PARA 4 OF YOUR REPORT: Please take action to recover the sum of Rs.111/ from the accused ex clerk.

PARA 5 OF YOUR REPORT: Your proposal that warrants may be issued in respect of the items in Appendix D against the persons concerned with a note to the police that the warrants need not be executed if they are able to prove that the fine amounts have been paid is approved. Simultaneously also issue notice to the accused clerk to make good the amount.

It is observed that according to your report dated 23.1.50 to the Inspector of Police, Mangalore the total amount coming under this category is Rs.270/12/0 whereas in your report cited above it is shown as Rs.263-12-0. Please reconcile the difference and let me know.

PARA 6 OF YOUR REPORT: Please issue notice to the President and the Vice President in respect of the items covering Rs.120/- shown in appendix E as proposed by you.

You have reported in para 10 of your above report that it is not necessary to call upon the accused clerk to make good the sum of Rs.221-5-3 being the sale proceeds of foodstuffs delivered to the S.K.C.C.W.Stores. Please let me know whether a prosecution can be launched against the clerk in respect of this misappropriation. You may consider this along with the suggestion contained in para 6 of your report for filing fresh charge sheet against this clerk. Please examine this question and let me know whether there is enough evidence to bring home the offence and if so on what counts. As the clerk is likely to be released soon this should be treated as urgent.

PARA 7 OF YOUR REPORT: Your proposal that the President may be instructed to issue warrants against the persons concerned for the realisation of the amounts shown in appendices F and G is approved.

PARA 8 OF YOUR REPORT: I agree that no action is necessary in respect of Rs.40-8-0 shown in appendix H.

PARA 9 OF YOUR REPORT: You may issue notice to the President in respect of Rs.170-10-9 shown in appendix J.

PARA 10 OF YOUR REPORT: Please issue notice to the Vice President for the sum of Rs.221-5-3 shown in appendix K.

PARA 11 OF YOUR REPORT: You may issue notice to the President in respect of Rs.63-2-6.

PARA 12 OF YOUR REPORT: Please issue notice to the President for the recovery of Rs.40-1-6.

Failure of the police constable to obtain acknowledgement from the court on 523 report should be taken to the notice of the Station House Officer, concerned.

2.Action on all the items mentioned above should be taken immediately and a report submitted to me by 25.5.51.

Yours faithfully,

For Dt. Magistrate.

Copy with a copy of the Sub Divisional Magistrate's report Ref.C.No.7449-49-C dated 27.3.51 submitted to
i)The Secretary to Government, Home department, Fort St. George Madras.
ii)The secretary to the Board of Revenue, Land Revenue, Chepauk Madras.
iii)The Assistant Registrar, Appellate side, High court, Madras in continuation of my report Ref.MHC.10673-49 dated 5.3.51.

Copy of letter Ref.C.No.7449-49-C dated 27.3.51 from the Sub Divisional Magistrate Mangalore to the Dt. Magistrate, South Kanara, Mangalore.

***

EMBEZZLEMENT: I class- Bench court, Mangalore--Forgery and mis-appropriation by ex-clerk--final report submitted.

Ref: 1.Report C.No.7449-49 dated 25.12.49.
2.Copy of the report No.7449-49 dated 25.12.49 addressed to the Inspector of Police, Mangalore.
3.Report Ref.C.No.7449-49 dated 23.1.51..
4.Ref.C.No.7449-49 dated 23.1.51 addressed to the Circle Inspector Mangalore and copy submitted to the Dt. Magistrate of S.Kanara.
5.Ref.C.No.74-50 M.H.C dated 3.1.50.
6.Ref.C.No.7449-49 dated 12.1.50 to the Dt. Magistrate South Kanara.
7.Ref.C.No.7449-49 dated 11.2.51 to the Dt, Magistrate of S.Kanara.
8.Ref.C.No.10673/49 MHC dated 3.3.50.
9.Proceedings Ref.C.No.74/50 MHC dated 29.3.50.
10.Ref.C.No.7449-49 (Ref.C.C.No.36/50) dated 31.3.50 to the Dt. Magistrate South Kanara.
11. Notes of inspection dated 31.3.50.
12.Ref.C.No.10673-49 MHC dated 20.4.50 of the District Magistrate to the Secretary to Government and copy to this office.
13.Letter Ref.C.No.7449-49 dated 10.8.50 to the District Magistrate of S.Kanara.
14.Letter Ref.C.No.7449-49 dated 7.3.51 to the District Magistrate of S.Kanara.
15.Ref.C.No.10673-49-MHC dated 6.3.51 received in this office on 9.3.51.
16. D.O. Ref.C.No.177-51 dated 16.3.51 from the D.S.P.South Kanara.

In continuation of this office reference cited above, I submit herewith the following the final report for favour of consideration.

2. The amounts misappropriated in the I class Behch court Mangalore and the sums remaining to be collected in that court have been furnished in sufficient detail in various appendix annexed to this report.

3. APPENDICES A & B: An amount of Rs.318-8-0 discribed in appendix A has been collected in the bench court and the collection entries there of are authenticated by the attestation of the President of that court. Similarly the collection shown in appendix B amounting to Rs.132/- has been made by the Vice President of that court as seen from his initials in the fine register in token of having collected the fine amounts in the court and entries as such in the judgment register. (Regr.No.25) During the course of the

evidence in C.C.68/50 on the file of the Sub Divisional Magistrate Puttur, the President and the Vice President have deposed that it has been their practice to note the collection of fine amounts paid in their presence in the remarks column of the register No.25 and that sums so shown represents the actual money paid by the party in court before the Magistrate. Even though certain pages in the fine register have been done away with by the accused clerk it can thus be taken for granted in respect of certain items that the fine amounts have actually been collected in the court according to the practice followed by them. So far as the amount relating to items in respect of which pages from the fine register have been removed (vide appendix D) is concerned such practice has not been followed, that is entries regarding collection of fine amounts have not been made in the relevant Judgments in register No.25. The fine amount shown in Appendix A & B collected by the President and the Vice President reppectively have not been remitted to the Treasury. This would not have occurred but for the slackness and negligence on thee part of the President and the Vice President of the Bench court, who appears to have entirely disregarded the instructions in rule 316 of the Criminal rules of practice They did not even verify whether the amounts have been remitted to the Treasury during the entire period. The Vice President may take shelter under the pretext that he is attending the court only on Saturdays and it is the duty of the President who presides over the Bench sitting on Monday, that is the next working day, to see to the proper remittance of the fine amounts collected on Saturday. The enclosure to the letter of the District Magistrate cited eight above shows that in M.L.Dis.2075-35 dated 10.6.1935 the then District Magistrate of South Kanara directed that "this system (to permit the Head clerk of the court to keep the fine and cash ~~aee~~ in his custody pending remittance to the Sub Treasury at Mangalore) could continue, it being understood that the President and Vice President were responsible for the fine money until it had been credited into the Treasury "It therefore goes without saying that the President is responsible for the amount shown in appendix A while the Vice President is liable for the amount shown in appendix B and these amounts should be made good by the President and the Vice President respectively. If the District Magistrate agrees I may be kindly permitted to issue notices both to the President and Vice President calling on them to make good the loss that is Rs.318-8-0 (appendix B) from the President and Rs.132/- from the Vice President. The total amount thereof comes to Rs.450-8-0 which fact has been reported in my reference cited fourth above (Vide para two) and subsequent references.

4. The accused clerk, who worked in Bench court as head clerk, during the period from 14.7.49 till 11.11.49 and thereafter till 25.12.49 as second clerk admitted in his statement under section 342 Cr.P.C. before the Sub Divisional Magistrate Puttur in C.C.68/50 that he was collecting the fine amounts from the parties concerned in the absence of the President and the Vice President and also during non working days. As soon as the parties paid the amounts to the accused clerk, he used to note the date of collection and the amount collected in the appropriate columns in the fine register. The amount of Rs.111/- described in appendix C was collected by the accused clerk in the manner described above and he is liable to pay the said amount. No receipts have been granted to the parties who pay the fine amounts to court during the period in question. If really the amount shown in appendix C had not been collected by the accused clerk, there was no necessity for him to note in his own hand the date of collection and the amount collected in the fine registers. It is therefore clear that the accused clerk had collected the sum amounting to Rs.111/- and the said amount has to be recovered from him as it has not been remitted to the Treasury so far. The entries in the fine register in respect of Rs.111/- shown in appendix C are also in hand writing of the accused clerk.

5. Regarding the various items shown in appendix D the relevant pages in the fine registers have already been removed from the fine registers and done away with by the accused clerk before my inspection. The amount of fines not credited to the Treasury in respect of these comes to Rs.263-12-0. As already reported by me in my reference cited fourth above no clue is available regarding the collection of the fine

amounts in these items. The presumption naturally would be that the accused clerk must have mis--appropriated the amounts relating to these items and destroyed the relevent pages in the fine register in his attempt to destroy ~~the relevent pages in the fine register in his attempt to destroy~~ evidence. It is however very difficult to know whether the parties relating to these items have paid the fine amounts to court or not as no receipts have been granted to the parties for payment of the fine amounts during the period in question. That is why it was suggested that Police investigation was necessary who by contacting the parties concerned might be able to find out the real facts in this regard. Since the police have pleaded their inability to investigate the matter the only alternative now left is to issue warrants to the concerned parties with a note to the Police that in case they (parties) are able to prove that they have paid the fine amounts to court, the warrants need not be executed and the recovery of the fines either by the Magistrate or by the accused clerk may be considered after hearing the parties concerned. Meanwhile notices may be issued calling upon the accused clerk to make good these amounts as he was responsible for the destruction of these pages and for not obtaining the bonds from the accused persons who were granted time for the payment of the fine amounts. If the above suggestions are approved necessary further action will be taken on the above lines regarding the recovery of the fine amounts shown in appendix D.

6. The thirteen items shown in appendix E are the various instances of misappropriation of fine amounts collected by the accused clerk by tampering with the entries in the registers maintained in that court. Every such instance has been explained in the appendix itself. The total amount involved in these thirteen items comes to Rs.120/- out of which a sum of Rs.65/- relates to the sittings presided over by the President and Rs.55/- to those presided over by the Vice President. In C.C.68/50 on the file of the Sub Divisional Magistrate Puttur the accused clerk was charged and convicted in respect of three items viz items,3,7 and 8 in appendix E and no charge sheet in respect of the remaining items has been filed so far. If it is found that the sentence awarded to the accused clerk in C.C. 68/50 on the file of the Sub Divl. Magistra e Puttur is not sufficient the Police will be asked to file another charge sheet before the competent court in respect of other charges described in appendix E. I may be kindly informed at a very early date, whether I have to take steps for filing another charge sheet against the accused clerk. If so steps will be taken after consulting the police and the Public Prosecutor before the accused clerk gets released after undergoing his deafault sentence. He is due to be released after serving the full period of substantive sentence and the default sentence towards the beginning of May next after making allowance for remission. Regarding the recovery of fine amounts detailed in appendix E the President is liable to pay Rs.65/- out of Rs.120/- as the amount relates to his sittings while the remaining amount has to be recovered from the Vice President as it relates to the sittings presided over by him. This suggestion is made after taking into consideration the instructions contained in Dt.Magistrate's proceedings in M.L.Dis.2075-35 dated 10.6.35 referred to in para 3 above. I may be permitted to issue notices accordingly to both to the President and the Vice President.

7. The amount shown in appendix F represents fines imposed in the Bench court during the period of 14.7.49 till 11.11.49 when the accused clerk was working as head clerk while the amount shown in appendix G was imposed in the court during the period prior to 4.7.49. The fine amount shown in both appendix F and appendix G remain uncollected and it is not known in the absence of the receipts if any granted to the accused persons who paid the fines etc, whether the said sum was collected during the period when the accused clerk was working in that court. Regarding the question of the recovery of these amounts, the responsibility cannot be now fixed either on the accused clerk or on the Magistrates. The President may be instructed to issue necessary warrants against the parties concerned for the recovery of the fine amounts shown in appendix F and appendix G. If the Police had taken up the investigation regarding these items as originally suggested by me the fact, whether the accused persons have paid the amount or not, could have been known to some extent. In the absence of any such investigation it is better that the President is asked to proceed on the lines mentioned above. I shall inform the president accordingly if my suggestion referred to above

is approved by the District Magistrate.

8. Appendix H shows the various instances where the accused clerk had remitted excess amount in the name of one accused and this shows that no accounts were maintained in that court and that there was confusion in the mind of the accused. The total excess remittance comes to Rs.40-8-0. No steps can be taken regarding this amount as it is not known whether the accused person concerned in any one case had paid the amount twice or whether the amount collected from one accused person was credited in the name of some other accused. No action appears necessary regarding the items described in appendix H which amounts to Rs.40-8-0.

9. The following is the procedure to be observed in the Bench court regarding the properties received in that court

The criminal case properties (valuables) received in the court are always kept in the custody of the President. The cash items ordered to be confiscated to Government are handed over to the Head clerk whose duty is to remit the amount to the Treasury and satisfy the Presidents regarding the correctness of the remittance. It is equally the duty of the President to see that the amounts taken out, are remitted in full and properly accounted for. The items other than cash will be sold in public auction and the sale proceeds thereof will be remitted to the Treasury. Appendix J shows the instances in which both the accused clerk and the President have failed in their respective duties in this regard and in which the amount taken out for remittance have not been remitted in full. Several items as shown in that appendix J were taken out for remittance and the amount was remitted to the Treasury in a common challan bearing No.112 dated 29.8.1949. The total amount taken out for remittance according to the entries in the property register which are in the hand-writing of the accused clerk and generally attested by the President, comes to Rs.833-5-6 but the amount actually credited under challan 112/29.8.49 is only Rs.662-10-9 as described in appendix J and the differential amount has not been remitted to the Treasury in any other challan nor has it been retained in the court. Thus an amount of Rs.170-10-9 has not been accounted for in that court and it has been misappropriated. Coming to the question of the recovery of the said amount, it has to be considered whether the amounts should be recovered from the President or the accused clerk. As pointed out in para 3 above it is the duty of the President to see that the amount taken out for remittance is remitted to the Treasury in full, and he cannot absolve himself of responsibility by saying that he had handed over the amount to the head clerk for proper remittance. The responsibility thus rests entirely on the President in this case and the amount of Rs.170-10-9 may be ordered to be recovered from the President. If this suggestion is approved I shall issue notice to the President to make good the loss of Rs.170-10-9.

10. Appendix K contains instances where the properties sent to court have not been accounted for properly. The seizures relating to three cases viz C.C.Nos.2044/49, 2042/49 and 2043/49 have been sent to the Bench court between 5.11.49, and 8.11.49. The seizures being perishable articles viz rice and beaten rice were sent to the S.K.C.C. stores A depot on 5.11.49 with a letter from the President dated 8.11.49 as seen in the receipt No.75751 B dated 8.11.49 of the stores. The depot agent took the seizures into the account and sent the sale proceeds of the seizures amounting to Rs.221-5-3 to the President on the same date through a constable No.681 C.R.S.adashiva of B2 station. The amount thus received has not been entered in any of the books maintained in the Bench court and the cash amount is not forthcoming in that court. It has not been remitted to the Treasury. The Vice President of the Bench court had sent an acknowledgement to the concerned Station House Officer for having received the seizures and that was dated 12.11.49. In the face of this acknowledgement it is not necessary now to call on the constable or the accused clerk to make good the amount, but it was her duty of the Vice President to see whether the said amount was properly accounted for in the court, before sending the acknowledgement to the Station House Officer concerned in taken of having received the seizures. When the Vice President had acknowkedged the receipt of seizures, it was his duty to see that the sale proceeds of the said seizures are either entered in the property register and kept in his custody or the amount remitted to the Treasury pending disposal of the case for disposit under the head 'Criminal Court

deposits. As he had failed to take either of these course, I submit that the Vice President must be made liable for the loss of Rs.22-5-3 I may, therefore be permitted to call on the Vice president to make good this loss amounting to Rs.22-5-3.

11. The Station ouse Officer, Mulky station laid a charge sheet before the Bench court in his petty case charge sheet No.135/49 on 22.8.49 for an offence of gaming under section 8 of the Madras Gaming Act and it was taken on file of that court as C.C.1536/49 on 23.8.49. The properties seized in connection with that cases viz cash amounting to Rs.63-2-6 in all and satta bid chits were also produced before that court along with the charge sheet by the Mulky police on 22.8.49. The receipt of the properties was acknowledged by the President of the Bench court on 22.8.49. The properties so received have neither been entere in the Property register (Reg.No.15) nor thay are forthcoming in the court even now. The President states that the former clerk Abubaker had misappropriated the said properties. The connected case has been disposed in that court in which the accused has been acquitted under section 245 Cr.P.C on 8.3.51 ordering the return of the properties to the party concerned. Now coming to the question of the recovery of the said amount, I submit that the President is liable to pay the said amount for the following reasons (1) that he had acknowledged the receipt of the Properties on 22.8.49, (2) that it was his duty to verify whether the properties are entered in the property register before acknowledging its receipt and (3) that he has failed to report the fact of misappropriation of this property items by the clerk on 24.8.50 itself on which date P.W 1 the Sub Inspector of Police was examined in court who proved the search list Ex.P.1 on that day but not the M.Os. The President would have certainly come to know then that the properties were not forth coming. I may therefore be permitted to call on the President to make good this amount of Rs.63-2-6.

12. The Station House-Officer, Mangalore North Police station laid a charge sheet against one K. Narayana Bhatta under sec. 8 and 9 of the Madras Gaming Act in petty case No.177/49, of that station. The case properties including cash to the tune of Rs.128-4-0 were sent to court with a 523 report (in duplicate) bearing serial No.34197. Both the copies of the 523 reports were retained in the case records without sending one copy to the station concerned with the acknowledgment of this court. The relevent entry in the property register of R.R. 233 of 1949 which is the handwriting of the accused clerk and the said entry has been attested by the President but the total amount in P.R.233/49 has been shown as Rs.88-2-6. Thus there was a shortage of Rs.40-1-6. The amount of Rs.88-2-6 shown in P.R.233/49 is forthcoming in the court. It was the duty of the President to have checked the entry in P.R.233/49 with the connected 523 report and sent an acknowledgement to the Police. By blindly signing the entry P.R.233/49 the President enabled the accused clerk to misappropriate the amount. The differential amount of Rs.40-1-6 may therefore be ordered to be recovered from the President. Necessary action has also to be taken against the constable concerned for not obtaining the duplicate cop of the 523 report with the acknowledgement of the court.

13. The accused clerk, Janab Abubacker was working as hedd clerk in that court from 14.7.49 till 11.11.49 and fron 11.11.49 onwards he was working as second clerk till 25.12.49 the date of his arrest Till he took charge of the post the condition of the court appeared to be satisfactory even though conditions had been left adrift by tl President. But after he took charge the conditions which had been left adrift without proper supervision by the presiding officer resulted in a muddle ending in the defalcation by that clerk. How it is necessary that adequate measures should be taken to prevent such defalcations in future. It can safely be concluded that the foggery and misappropriation committed by the accused clerk would not have taken place for the slackness and negligence on the part of the President and Vice President of the Bench court. It is not necessar to amend or alter any of the existing rules, but if the President and the Vice President had strictly followed the instructions contained in rule 316 of the Criminal rules of Practice and other instructions received from the Dt.Magistrate from time to time in the reviews etc, the present state of affairs would not have come to

pass. The failure on the part of the President and Vice President to observe these instructions is the dir ct and immedi te cause for the misappropriation: As reported by me in my reference cited ~~seven~~ above it is desirable that these Hon. Magistrates viz the President and the Vice President are made responsible, like stypendiary Magistrate for the fine amounts and properties and the rules applicable to the stypendiary Magistrate are made applicable to the Honorary Magistrates in respect of these items. Further the dema d of cash security from the President and the Vice President may also be considered as suggested in my letter cited seven above. So far as Mangalore Bench court is concerned I suggest that the post of the head clerk of t.is court may be upgraded to that of an Upper Division Clerk considering the responsibility and volume of work in the court.

14. With reference to the letter cited fifteen above I submit the following:

1)The sum of Rs.221-5-3 being the price of seizures sent by the S.K.C.C.W.Stores was not remitted to the Treasury. The matter has been explained in para 10 above as also in appendix K.
2)The fine amounts acknowledged by the President have been detailed in appendix A and those acknowledged by the Vice President in appendix B The amounts in appendix A and B aggregate to Rs.450-8-0. The model of recovery of the said amount etc has been given in para 3 above.
3)The sum of Rs.252-12-0 described in appendix F has not been collected from the accused concerned. Steps for the realisation of this amount will be taken as suggested in para seven above.
4)So far as this question is concerned I may state that all possible steps have b en taken with the time and facilities at my command to see whether all the properties sent to court by the police are accounted for in the court. I did not come across any instances of mis-appropriation by the accused clerk ~~a~~ other than those mentioned in this report. In this connection I may be permitted to point out that the Police have not rendered any cooperation to me in the further investigation to find out the exact extent of misappropriation. When I requested the Circle Inspector of Police, Mangalore to make arrangements to send the book containing 523 reports sent to the I class Bench court Mangalore during the period between 1.6.49 and 31.12.49 together with the acknowledgements obtained from the court the Inspector thought it fit to complain to his Dt.Superintendent of Police about the help expected from him and the Dt.Superintendent of Police has written to me that station copies of form 91 cannot be sent informally as the police department is solely responsible for their proper custody. The information called for by me was quite necessary as the 523 report received in the Bench court were not filed in the connected case records.

15. The statement required to be submitted with reference to para 3 of your reference cited fifteen above is given in appendix L. With reference to para 4 of the said reference, I submit that my report in para 6 above may be kindly perused. If the Dt. Magistrate considers that the sentence awarded by the Sub Divisional Magistrate Puttur in C.C.68/50 on his file is not sufficient, I may be informed whether another charge sheet is necessary against the said clerk and I shall submit proposal after consulting the matter with the Public Prosecutor.

- /True Copy/ sd/S.U.P.Nayak
S.D.M., Mangalore

PENDIX A:

The items detailed below show the total fine amount that has been collected in the court by the President as supported by his attestation in the fine register or the collection entries in the Judgment register.

C.C. No. of 1949.	Name of the accused.	Date of Judgment.	Fine imposed.	Date of collection.	Amount collected but not remitted.
(1)	2)	(3)	(4)	(5).	(6)
1396	Marcel Lobo	25.7.49	2-0-0	25.7.49	2-0-0
1040	Koti Poojary	-do-	12-3-0	-do-	-do-
1550	Shabba Beary	24.8.49	15-0-0	24.8.49	15-0-0
577	Hasan Beary	-do-	2-0-0) 2-8-0)	-do-	2-8-0
1287	Alix Fernandes	25.8.49	2-0-0) 2-8-0)	25.8.49	2-8-0

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(1)	(2)	(3)	(4)	(5)	(6)
675	Albert Souz	25.8.49	4-0-0	25.8.49	4-0-0
			5-0-0	"	
1293	Chandu Poojary	"	2-0-0	"	
			2-8-0	"	2-8-0
897	Jaffery D'Souza	15.9.49	1-0-0	15.9.49	1-0-0
1535	Krishnaya	"	20-0-0	"	20-0-0
1543	Sudi Beary	"	10-0-0	"	10-0-0
1544	Sanjiva	"	-do-	"	-do-
1545	Sankala Gowda	"	-do-	"	-do-
1546	Sankappa Madivala	"	-do-	"	-do-
1537	Muthaya Poojary	"	12-0-0	"	12-0-0
1538	Somaya Poojary	"	-do-	"	-do-
1539	Rama Moily	"	-do-	"	-do-
1540	Sanjiva Madivala	"	-do-	"	-do-
1541	Jaru Bhandary	"	-do-	"	5-0-0
1542	Ahmed Beary	"	-do-	"	12-0-0
1255	Narayana Bhandary	"	2-0-0	"	2-0-0
1314	Usman Beary	"	4-8-0	"	4-8-0
578	Kanthappa Poojary	"	2-0-0	"	2-0-0
1216	Uchabba Beary	"	9-0-0	17.9.49	7-0-0
					2-0-0
1354	Ahmed Beary	"	11.4.0	15.9.49	5-0-0
1236	Joseph Benjamin	"	4-0-0	-do-	4-0-0
1307	Dama Gowda	"	2-0-0	"	2-0-0
1299	Kunchamad Beary	"	2-0-0	"	2-0-0
1603	Venkatramana Nowda	21.9.51	5-0-0	21.9.49	5-0-0
1656	Dooma Shetty	"	-do-	"	-do-
1655	Veerappa Shetty	"	-do-	"	-do-
1600	Chandu Bai	"	2-0-0	"	2-0-0
1589	Narayana Shetty	"	2-0-0	"	-do-
1580	Oovaya	"	-do-	"	-do-
1575	Thimmappa	"	-do-	"	1-0-0
1577	Mammunhi Beary	"	-do-	"	1-0-0
1564	Narayana	"	1-0-0	"	-do-
1566	Kelappa	"	2-0-0	"	2-0-0
1662	Hammabba	"	0-8-0	"	0-8-0
1581	Raman Nair	"	2-0-0	"	2-0-0
1582	Mundappa	"	-do-	"	1-0-0
1606	Abdul Rahiman	"	1-0-0	"	1-0-0
1487	Ramana	"	2-0-0	"	2-0-0
1130	Abdul Rahiman	"	1-0-0	"	1-0-0
1505	Philip Souza	"	5-0-0	"	5-0-0
1226	Baba Alva	"	9-0-0	21.9.49	9-0-0
1632	Kadri Beary	"	1-0-0	5.10.49	1-0-0
1626	Ahmad Beary	5.10.49	5-0-0	"	5-0-0
1245.	Bade Poojary	"	9-0-0	-	9-0-0
1611	Manjunath Shetty	12.10.49.	5-0-0	12.10.49.	5-0-0
1794	Mangesh Rao	26.10.49	2-0-0	26.10.49	2-0-0
1496	Vasudeva Shanbhogue	"	5-0-0	"	5-0-0
1609	Ibrahim Saheb	"	-do-	-do-	-do-
1776	Abdul Latife	-do-	2-0-0	-do-	2-0-0
1780	Thyampachari	-do-	-do-	-do-	2-0-0
1781	Gilbert D'Costa	-do-	-do-	-do-	1-0-0
1788	Hydros Beary	-do-	-do-	-do-	2-0-0
1782	Kunhi Beary	-do-	-do-	-do-	-do-
1876	Moidin Beary	-do-	-do-	-do-	-do-
1881	K. Honaya	-do-	-do-	-do-	-do-
1882	Sharada Bai	-do-	-do-	-do-	-do-
1885	Walli Ahmed Beary	-do-	-do-	-do-	-do
1590	Kashemir Lobo	31.10.49.	-do-	31.10.49	-do-
1635	Monu Moily	-do-	5-0-0	-do-	5-0-0
1922	K. Krishnan	-do-	-do-	-do-	3-0-0
1929	Abdul Saheb	-do-	1-0-0	-do-	1-0-0
1928	Vasudeva Rao	-do-	3-0-0	-do-	3-0-0
1927	Channappa Poojary	-do-	1-0-0	-do-	1-0-0
1923	Abdul Khader	-do-	2-0-0	-do-	2-0-0
1924	M. H. Aliabba	-do-	-do-	-do-	-do-
1925	Kharim Saheb	-do-	-do-	-do-	-do-
1696	Yakub Saheb	-do-	1-0-0	-do-	1-0-0
1799	Panduranga Naik	-do-	2-0-0	-do-	2-0-0
1800	Lawrence Fernandes	-do-	-do-	-do-	-do-

C.C.No. 1949.	Name of the accused.	Date of judgment.	Fine imposed.	Date of collection.	Amount collected but not remitted
1248	Thomas Souza	2-7-49	9-0-0	15-8-49	5-0-0
1354	Gampa	1-8-49	40-0-0	9-8-49	15-0-0
2281/48	Iguas Craz	21-9-49	50-0-0	11-10-49	30-0-0
1726	Tevdi & Sequera	"	12-0-0	10-10-49	4-0-0
1663	Ahmead	"	3-0-0	19-10-49	3-0-0
1645	Krishna Shetty	12-10-49	15-0-0	18-10-49	10-0-0
1948	Keshava	19-10-49	10-0-0	27-10-49	4-0-0
1969	Sundara Shetty	26-10-49	50-0-0	10-11-49	15-0-0
1970	Ahmad Bava	"	25-0-0	3-11-49	15-0-0
1102	1102 Krishna Kini	27-6-49	50-0-0	1-8-49	10-0-0
			Total amounts		111-0-0

APPENDIX. D.

The relevent pages in the fine registers relating to the items discribed below have been removed from the fine register and done away with by the then Head Clerk. Instances where the fine collections have been noted in the judgment RegisterNo.25 by the Magistrate have been noted in appendix A or B. But in respect of the items mentioned below no clue is available regarding the collection of the fine amounts. The total amount comes to Rs. 263-12-0

Continued in page 10.

(1)	(2)	(3)	(4)	(5)	(6)
1786	M.Narayana Bhat	31-10-49	2-0-0	31-10-49	2-0-0
1788	Abdulla Ali	-do-	2-0-0	-do-	2-0-0
1791	Venkappa	-do-	2-0-0	-do-	2-0-0
1787	Hassan Beary	-do-	2-0-0	-do-	2-0-0
	Total amount.				318-8-0

APPENDIX 'B'

The items detailed below show the total fine amount that has been collected in the Court by the vice President as supported by his attestation in the fine register or the Collection entries in the Judgement Register.

C.C.No.of 1949.	Name of the accused.	Date of judgement	Fine imposed.	Date of collection.	Amount collected but not remitted.
1	2	3	4	5	6
1028	Narain Moily	30-7-49	2-0-0	30-7-49	1-0-0
1002	Narain Moily	13-8-49	2-0-0.	13-8-49	2-0-0
730	Shekabba	10-9-49	10-0-0	10-9-49	10-0-0
948	Abbas Beary	10-9-49	10-0-0	-do-	10-0-0
1194	Kalyani	17-9-40	5-0-0	17-9-49	5-0-0
1195	Sujeer Vamana Naik	-do-	25-0-0	-do-	25-0-0
1998	A.B.Juthanna	-do-	10-0-0	-do-	25-0-0
1327	Pokabba Beary	-do-	20-0-0	-do-o	20-0-0
1381	Narayana	-do-	2-0-0	29-10-49	2-0-0
1985	Ysavantha	-do-	2-0-0	-do-	2-0-0
1986	Jari Pinto	-do-	2-0-0	-do-	2-0-0
1972	Guruvappa	-do-	2-0-0	0-do-	2-0-0
1973	Sanura	-do-	2-0-0	-d -	2-0-0
1974	Shobe	-do-	2-0-0	-do-	20-0-0
1975	Gopala	-do-	2-0-0	-do-	2-0-0
1976	Mongo	-do-	2-0-0-	-do-	2-0-0
1977	Narayana	-do-	2-0-0	-do-	2-0-0
1978	Jarappa	-do-	2-0-0	-do-	2-0-0
1979	Iddinabba	-do-	2-0-0	-do-	2-0-0
1884	Mahamad Beary	-do-	2-0-0	-do-	2-0-0
1558	Paumanabha	-do-	3-0-0	-do-	2-0-0
1909	Abdul Rahiman	-do-	2-0-0	-do-	2-0-0
1907	Muthappa Moili	-do-	4-0-0	-do-	4-0-0
1908	Nagappa	-do-	2-0-0	-do-o	2-0-0
1896	Ramachandra Poojary	-do-	4-0-0	-do-	4-0-0
1897	Felix Menthoro	-do-	4-0-0	-do-	4-0-0
1894	Koraga Poojary	-do-	1-0-0	-do-	1-0-0
1584	Kashmir Lobo	-do-	2-0-0	-do-	2-0-0
1900	Ramappa Pujary	-do-	4-0-0	-do-	4-0-0
1910	Ganga Mulya	-do-	2-0-0	-do-	2-0-0
1492	Hasanabba Beary	-do-	10-0-0	-do-	3-0-0
					132-0-0

APPENDIX C.

The fine amounts collected in the following items amounting to Rs.111/- have not been remitted to the Treasury. The entrys relating to the date and the amount collected in these items are in the handwriting of the then Head-clerk Abubaker.

* continued in separate sheet attached.

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C.C.No. 1949 1	Name of the accused. 2	Fine imposed. 3	Date of judgment. 4	Fines to be collected 5
947	Bejmi @ Pascal Souza.	15-0-0	17-9-49	10-0-0
1198	A.B.Puthamma.	10-0-0	"	5-0-0
1207	Kasanabba Beary	10-0-0	"	10-0-0
1712	Kanthu Shetty K	12-0-0	21-9-49	7-0-0
1713	Kalu	12-0-0	21-9-49	12-0-0
1714	Thimmappa Poojary.	12-0-0	"	12-0-0
1715	Deju Poojary	12-0-0	"	12-0 0
1716	Voneaya Madivala	12-0-0	"	12-0-0
1717	Aithu Madivala	12-0-0	"	9-0-0
1718	Uthappa Mulya;	12-0-0	"	12-0-0
1719	Pnkera Poojary	12-0-0	"	10-0-0
1720	Marappa Shetty	12-0-0	"	12-0-0
1721	Mundu Shetty	12-0-0	"	8-0-0
1722	Deva Pujary.	12-0-0	"	12-0-0
1723	Narayana Mulya	12-0-0	"	12-0-0
1724	Rageeva.	12-0-0	"	5-0-0
1725	Krishnappa Poojary	12-0-0	"	8-0-0
1618	Kanthappa Poojary	5-0-0	5-10-49	5-0-0
1566	Venkamma	3-0-0 1-0-0	"	1-0-0
1569	Kamala Belchadthe	8-12-0 1-0-0	5-10-49	1-0-0
1636	Narayana Shetty	6-0-0 5-0-0	"	5-0-0
1560	Thaniya	6-0-0 2-0-0	"	2-0-0
1277	Sheka Beary.	6-0-0 8-12-0	"	8-12-0
1613	Panduranga Kamath	7-0-0 5-0-0	"	5-0-0
1627	Ahmed Beary.	7-0-0 5-0-0	"	5-0-0
1657	Sheshappa Moily	3-0-0 5-0-0	"	5-0-0
1729	Iddinabba	2-0-0 7-0-0	"	7-0-0
1733	Moidin	2 7-0-0	"	7-0-0
1558	Padmappa Pujary	3-0-0	29-10-49	1-0-0
1915	Babu Shetty	2-0-0	31-10-49	2-0-0
1914	Lawrance Rego.	2-0-0	"	2-0-0
1935	Krishnappa Pujary	5-0-0	"	3-0-0
1690	Sadashiva	5-0-0	"	5-0-0
1691	Narayana	5-0-0	"	5-0-0
1792	M.Sequira.	2-0-0	"	2-0-0
1793	Vamana Shet.	2-0-0	"	2-0-0
1794	Alex Menodoza.	2-0-0	"	2-0-0
1798	Ahmed .	2-0-0	"	2-0-0
1774	Sharadha Bai	2-0-0	"	2-0-0
1775	Kamalaksha	2-0-0	"	2-0-0
1695	Mudara Moili	1-0-0	"	1-0-0
1890	Koraga Pottari	1-0-0	"	1-0-0
1801	Seethu	2-0-0	"	2-0-0
1955	Somappa Poojary.	10-0-0	"	10-0-0
				263-12-0

Note.. The total fine amount covered by the pages in the fine Register that have been done away with comes to Rs.460-12-0 in all. Out of this a sum of Rs.120-0-0 shown as collected as per entries in the judgment Register has not gone to the Treasury and the said sum has been included either in appendix A or B.Out of the total amount of Rs.460-12-0 sum of Rs.77-0-0 have been credited to the Treasury and the remaining sum in respect of which no clue is available regarding the collection is detailed in Appendix X D.

APPENDIX E

The following are the items in which the fine amount was a misappropriated by tampering with the entries in the fine register. Out of the total amount of Rs.120/- item 1 to 6 and 8 to 11 amounting to Rs. 65/- relate to the sittings presided by the President while remaining items 7,12 and 13 relate to the sitting presided over by

over by the Vice President which amounts to Rs.55/-

The accused Abubacker was convicted and sentenced in respect items 3,7 and 8 and in respect of the remaining items charge sheet has not been filed.

Item No.	C.C.No. 1949.	Name of the accused.	Date of judgment.	Fine imposed.	Amount to be accounted fo
1	1164/49	Achu Alva	25-7-49	4-8-0	2-8-0
2.	1282/49	Thimmappa Alva	11-8-49.	2-0-0) 2-8-0)	2-8-0
3.	1449/49	Babu Poojary	29-8-49	15-0-0	5-0-Ø
4.	1450-49	Chandu Marakala	"	15-0-0	5-0-0
5.	1451/49	Balappa Poojary	"	15-0-0	5-0-0
6.	1452/49	Dasa Moilya	"	15-0-0	5-0-0
7.	1417/49	Andunhi Beary	3-9-49	25-0-0	15-0-0
8.	1514/49	Somappa Baidea	5-9-49	10-0-0	5-0-0
9.	1515/49	SankappaPoojary	"	10-0-0	5-0-0
10.	1968/49	Hosanabba	26-10-49	15-0-0	10-0-0
11.	1967/49	Sundara Shetty	"	50-0-0	20-0-0
12.	1207/49	Madava Shanbogue	11-5-49	25-0-0	20-0-0
13.	1334/49	C.Achuthan	5-11-49	25-0-0	20-0-0
		Total			120-0-0

Item No.1: On 25-7-49 one Achu Alva was fined Rs.2/- in C.C.1164/49 and he was also directed to pay an amount of Rs.2-8-0 towards licence fees in addition to the fine. The entry, in the fine register relating to licence fee of Rs.2-8-0 was erased and only a sum of Rs.2/- was credited to the Treasury. The item so converted is in the handwriting of that head clerk Janab Abu Baker.

Item No.2. On 11-8-49 the accused in C.C.1262/48 of Bench Court was fined Rs.2/- as also to pay a sum of Rs.2-8- 0 towards licence fee in addition to the fine. The amount written in col.7 of the fine register has been erased as also the collection entry in Col.No.9. Thus a sum of Rs.2-8-0 has not been accounted for and it has has been misappropriated.

Item No.3 to 6. In C.C.Nos1449,1450,1451 and 1452 of 1949 The accused were fined Rs.15-0-0 each along with the accused in C.C. 1447/49 and 1448/49 on 29-8-1949. The correction and over writings converting the figures from 15 to 10 ain each case have been attested by the accused clerk Janab Abu Bakar and only Rs.10- in each case (first four cases) have been remitted to the Treasury in Ch.No.1246/ 16-9-49. Thus a total sum of Rs.20/- has been misappropriated. Out of these four items one item viz. No.3 was included in the Charge sheet disposed of by the Sub Divl. Magistrate Puttur and the accused clerk has been convicted for it (Vide charge No.1 in the Judgment in C.C.68/50 of Sub Divl.Magistrate Puttur.

Items No.7 Andunhi Beary,accused in C.C.1417/49 was fined Rs.25/- on 3-9-49. The entry relating to the fine imposed have been tampered with and corrected into Rs.10/ - and the amount of Rs.10/- only has been credited to Treasury, thereby misappropriating a sum of Rs.15/- This has been included in charge No.2 in C.C.68/50 of the Sub Divisional Puttur and the accused clerk has been convicted for it.

Items No.8 and 9. The fine amount of Rs.10/- each awarded to the accused in C.C.Nos.1514/49 and 1515/49 on 5-9-49, has been corrected (By rubbing) into Rs.5/- each in the demand colum (4) and the fine at Rs.5/- in each case has been credited, thus involving a misappropriation of Rs.10/- in both the cases together. Out of these items 8 was included in charge No.3 of C.C.68/50 of Sub Divl.Magistrate, Puttur and the accused clerk has been convicted for it.

Item No.10 and 11 While totaling up the amounts in chalan Serial No. 85536 dated 26-10-1949 the amount comes to Rs.64-8-0 while in the

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in the corresponding counterfoil bearing ch.No.576 dated 26-10-48 of Mangalore Sub Treasury the total amount remitted is only Rs.34-8-0 in the counter foil the fine amount relating -to these two cases (C.C.1958/49 and 1969/49) have been corrected and over written coverting the amount to Rs.15/- and 25/- respectively thus involving a misappropriation of Rs.30/ in all.

Items No.12: One Madhava Rao, concerned in C.C.1207/49 was ~~fined~~ fined Rs.20- on 5-11-49. In the fine register relating to that date the figure 25 has been altered to 5. The said entry is not supported by the initial of the Magistrate. The demand of Rs.25/- has been converted to Rs.5/- Only a sum of Rs. 5/- has been credited to Government. Thus sum of Rs.20/- has been misappropriated.

Item No.13.: On 5-11-49 one Achuthan was fined Rs.25/- in C.C. 13334/49. In the Judgment Register it is stated that a sum of Rs.25/- has been collected that day itself. The amount of Rs.25/- shown as collected in the fine register has been corrected to Rs.5/- with the attestation of the then clerk and ~~only~~ only an amount of Rs.5/- has been remitted to the Treasury under challan No.770 dated 7-11-49. There is a sum of Rs.20/- has been misappropriated by tampering with the collection entry in the fine register.

APPENDIX F.

The following fine amounts imposed in the Bench Court during the period 14-7-49 to 11-11-49) the accused clerk Janab Abubaker was working as clerk are shown as balance (pending collection) and with the information available it cannot be made out whether the fines have been collected or not.

C.C.No. 1949 1	Name of Accused. 2	Fine imposed. 3	Date of fine. 4	Finesremaining to be collected 5.
14	Aithappa	2-0-0	4-7-49	2-0-0
1369	Gopala	12-0-0	11-7-49	4-0-0
821	Abdul Gani	7-0-0	13-7-49	2-0-0
585	Aithappa Sapalya	5-0-0	18-7-49	3-0-0
1367	Abdul Kader	4-8-0	20-7-49	4-8-0
395	Leo Pinto	1-0-0	21-7-49	1-0-0
~~1299~~	~~Ahmad Bava~~	~~20-0-0~~	~~25-7-49~~	
1300	Ahmad Bava	3-8-0	-do-	1-4-0
1367	Shankara	20-0-0	25-7-49	15-0-0
1134	Sankappa Poojary	2-0-0	1-8-49	1-0-0
1355	Benjamin Pinto	15-0-0	1-8-49	5-0-0
1022	Padmanabha	2-0-0	4-8-49	2-0-0
993	Thukra	2-0-0	6-8-49	1-0-0
72	Ahmad Bava	20-0-0	22-8-49	20-0-0
1460	Thabura Shetty	2-0-0	22-8-49	1-0-0
1461	Kamala Soans	2-0-0	"	1-0-0
1462	Victor Karkada	2-0-0	"	1-0-0
1463	Bonafee Armhana	2-0-0	"	1-0-0
1114	Shaba Saheb	25-0-0	31-8-49	15-0-0
874	Venkatramana Naik	40-0-0	1-9-49	40-0-0
1541	Jaru Bhandary	10-0-0	16-9-49	7-0-0
1666	Keshava	3-0-0	"	3-0-0
1552	Mundappa	2-0-0	"	1-0-0
1435	Mundappa	2-0-0	"	2-0-0
1385	Danis Pinto	3-0-0	24-9-49	3-0-0
1024	Aithappa	2-0-0	"	2-0-0
1567	Narayna	4-0-0	"	4-0-0
1573	Sundar Shetty	5-0-0	28-9-49	5-0-0
1521	Padmappa Poojary	10-0-0	10-10-49	2-0-0
1504	Kanthappa Pujary	5-0-0	12-10-49	5-0-0
738	Gulam Beary	50-0-0	15-10-49	10-0-0
1862	Ibrahim Beary	1-0-0	24-10-49	1-0-0

1	2	3	4	5
~~1682~~	~~Ibrahim Beary~~	~~1-0-0~~	~~24-10-49~~	~~1-0-0~~
1727	Narayana Shetty	12-0-0	24-10-49	6-0- 6-0-0
1741	Pontu Dalanade	12-0-0	"	12-0-0
1496	Vasudeva Shanbhogue	15-0-0	26-10-49	10-0-0
1983	Gopala Krishna	2-0-0	29-10-49	2-0-0
1987	Mudara	2-0-0	29-10-49	2-0-0
1623	Gopala Ganiga	5-0-0	7-11-49	5-0-0
2041/48	Sheshappa Shetty	50-0-0	9-11-49	50-0-0
		Total		252-12-0

APPENDIX G.

The following are the items shown as pending collection and these relate to the fines imposed in this court prior to 4-7-1949

C.C.No.	Name of the accused	Date of imposition.	Amount collected.	remaining to be
1	2	3	4	5
1203/49	Babu Poojary	22-9-49	1-0-0	
1458/49	Ugga Poojary	22-9-49	1-0-0	
3200/49	Lorry Souza	22-12-49	4-0-0	
704/49	Devappa Moily	23-3-49	6-0-0	
153/48	Gurpvappa	28-7-48	10-0-0	
238/49	~~do-~~	28-7-48	5-0-0	
1667/48	Kundappa	25-8-49	2-0-0	
1673/48	Hasana ba	"	2-0-0	
1678/48	Gopala	"	2-0-0	
1663/48	Sankaran	25-8-48	2-0-0	
1334/48	V.K.Balakrishna	27-10-48	50-0-0	
182/48	Sadashiva Belchada	31-1-49	1-0-0	
13/49.	Ananada.	14-3-49.	1-0-0	
3127/49	Uchabba	14-3-49	5-0-0	
27/49	Ahmad Beary	"	5-0-0	
279/49	Matathil Mohamad	17-3-49	15-0-0	
493/49	Padmappa	21-3-49	2-0-0	
531/49	Hussain	23-3-49	5-0-0	
662/49	Marthu Souza	31-3-49	9-0-0	
632/49	Narayana Belchanda	31-3-49	2-8-0	
~~632/49~~	~~Charles Maben~~	"		
628/49	Padmappa Charles Maben	"	3-0-0	
484/49	~~Kamalaksha~~ Padmappa	14-4-49	1-0-0	
827/49	Sankappa Poojary Kamalaksha	16-4-49	7-0-0	
829/49	Abdul Beary- Sankappa Poojary	"	2-0-0	
797/49	Ibrahi Beary Abdul Beary	21-4-49	5-0-0	
824/49	Kunhambu Ibrai Beary	"	1-0-0	
824/49	Jarappa Poojary Kunhambu	"	1-0-0	
746/49	~~Abdul Khader~~ Jarappa Pujary	28-4-49	10-0-0	
933/49	~~Shekarachar~~ Abdul Kader	9-5-49	10-0-0	
956/49	Shankarachar.	23-5-49	2-0-0	
562/49	Abdul Gani	6-6-49	5-0-0	
878/49	Hasanabba	6-6-49	7-0-0	
977/49	K.Mahabala	13-6-49	10-0-0	
990/49	Sullaiman	18-6-49.	15-0-0	
2083/49	Mohamad Beary	16-6-49	4-0-0	
1103/49	Ramadas Shenoy	27-6-49	2-0-0	
1108/49	Ganesha Prabhu	"	20-0-0	
473/49	Narayana	"	1-0-0	
1200/49.	U. .Balakrishna Acharya.	30-6-49	50-0-0	
	Total.		286-8-0	

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APPENDIX.H. Excess remittance of fines amounts to the Treasury has been noticed in the following item evidently this has been done due to confusion in the mind of the accused clerk as he ... not maintain accounts nor was there proper check by the President. It cannot be made out whether the fine amounts were collected in excess from the accused concerned and whether the items relate to different accused persons.

FORM APPENDIX H.

C.C.No.	Name of accused.	Date of Judgment.	Date of Fine imposed.	Date of collection By Magt.	By clerk.	Amount collected.	Challan & date	Amount remitted	Excess Remittance.
1	2	3	4	5	6	7	8	9	10
1155/49	Nanneu Beary	25-7-49	4-0-0		1-8-49	4-0-0	616/2-8-49	4-0-0	4-0-0
						1-0-0	257/25-7-49	4-0-0	
1335/49	Shivappa	25-7-49	4-0-0	25-7-49	1-8-49	1-0-0	260/29-7-49	4-0-0	5-0-0
						5-0-0	616/2-8-49	5-0-0	
1336/49	Shankara	"	4-0-0	25-7-49	" 1-8-49	1-8-0	260/29-7-49	4-0-0	
						2-8-0	616/2-8-49	2-8-0	2-8-0
1382/49	Venkata Poojary	"	5-0-0	25-7-49	30-7-49	4-0-0	257/29-7-49	5-0-0	
						1-0-0	377/30-7-49	1-0-0	1-0-0
1370/49	P.Babu	"	12-0-0	25-7-49	1-8-49	4-0-0	266/29-7-49	4-0-0	
					28-8-49	5-0-0	1297/11-8-49	5-0-0	1-0-
						5-0-0	1595/19-8-49	5-0-0	
						2-0-0	445/2-9-49.	5-0-0	
1509/49	Seedi Beary	13-8-49	10-0-0	13-8-49		10-0-0	297/31-8-49	10-0-0	
							1722/23-8-49	10-0-0	9-0-0
1511/49	Hammabba	17-8-49	10-0-0		21-8-49	10-0-0	297/31-8-49	10-0-0	
							1722/23-8-49	10-0-0	10-0-0
1512/49	Somappa	17-8-49	10-0-0	17-8-49		10-0-0	297/31-8-49	5-0-0	5-0-0
							1722/23-8-49	10-0-0	
1411/49	Badava Kunhi	29-8-49	1-0-0	5-9--	5-9-49	1-0-0	575/5-9-49	1-0-0	1-0-0
							296/31-8-49	1-0-0	
1413/49	Abubaker		1-0-0		5-9-49	1-0-0	575/5-9-49	1-0-0	
							296/31-8-49	1-0-0	1-0-0
1362/49	Babba	25-8-49	5-0-0	25-8-49		2-0-0	296/31-8-49	5-0-0	
					31-8-49	3-0-0	445-2/9-49	3.0-0	3-0-0
									40-8-0

Tota excess Remittance

APPENDIX. J.

Amount relating to the several items of properties shown below were credited to the Treasury under common challan No.112/29-8-49. The total amount credited under that challan (as shown in the register) according to the entries in the property Register comes to Rs. 823-5-6. The revelant entries in the property register are in the handwriting of the accused clerk who was convicted in the CC 68/50 of S.D.M.Puttur and most of the entries have been attested by the President. The amount relating to these several items of properties as seen from the entries generally attested by thePresident whois the custodian of the valuables, was handed over to the said clerk for being remitted to the Treasury. But the challan is only of for Rs.662-10-9 and only an amount of Rs.662-10-9 has been credited to the Treasury. Thus an amount of Rs.170-10-9 has not been accounted for.

Details of amount credited under the challan (Ch.112/29-8-49) as according to the entries in the property Register.

P.R.No.	Amounts.	P.R.No.	Amounts.
8/48	2-1-5	36/49	0-0-9
20/48	1-2-4	37-49	0-4-0
22/48	7-11-6	40-49	7-14-0
55/48	84-1-3	41-49	7-15-0
85/48	2-12-0	42/49	51-3-9
86/48	13-1-0	45/49	0-2-0
87/48	6-8-0	49/49	13-6-6
89-48	6-14-4	52/49	2-1-6
90/48	33-3-3	54-49	10-10-6
94/48	8-0-3	65-49	9-14-6
99/48	10-7- 0	66/49	5-12-6
103/48	8-14-0	69-49	0-15-(
105/48	23-8-0	77-49	18-13-6
102/48	4-14-9	75-49	10-9-0
109/48	33-12-0	79-49	8-0-9
170/48	118-0-6	81-49	0-4-0
172-48	14-5-1	84-49	52-15-3
183-48	24-0-0	88-49	33-5-0
192.A/48	68-10-0	89-49	2-2-6
1-49	6-0-0	90-49	1-3-0
3/49	4-4-0	94-49	4-6-9
6-49	14-2-9	95-49	47-3-0
7-49	3-14-1	96-49	13-13-9
8-49	0-5-0	107-48	12-6-6
11-49	5-15-6	145-47	0-0-6
31/49	16-3-6	152-47	0-8-6
34/49	7-5-3		833-5-6
35-49	0-0-3		
	525-1-0		
Total			

Descriptionof the amount remitted as per challan 112/29-8-49 as can be seen from the original challan.

P.R. No.	Amount	P.R.No.	Amount.
90	33-3-0	3-	4-4-0
192	68-10-0	1-	6-0-0
183	24-0-0	66	5-12-6
8	2-1-5	52	2-1-0

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P.R. No.	Amount	P.R.No.	Amount
103	8-14-0	69	0-15-0
87	6-8-0	54	10-10-6
172	14-5-1	79	8-0-9
105	23-8-0	81	0-4-0
55	84-1-6	65	9-14-6
30	1-2-4	45	0-2-0
85	2-12-0	41	7-14-0
99	10-7-0	40	0-2-6
94	3-0-3	37	0-4-0
22	7-11-6	38	0-1-6
89	6-14-4	36	0-0-9
108	4-14-9	35	0-0-3
107	12-6-6	49	13-6-6
78	10-9-0	95	47-3-0
6	14-12-9	89	2-2-6
17	18-13-6	84	52-15-3
94	4-6-9	96	13-13-9
88	33-5-0	145/47	0-0-6
96	13-3-9	152/47	0-8-6
3	16-3-6	109/47	33-12-0
11	4-15-6		---------
34	7-5-3		662-10-9
8	0-5-0		----------
7	3-14-1		
Total	442-5-6		

Total amount taken out for remittance 830-5-6 ~~828-5~~

Amount remitted as per chalan 112/29-8-49 Rs.662-10-9

Balance amount not remitted Rs. 170-10-9

APPENDIX. K.

Item No.1. The properties concerned in C.C.No.2044/49 (F.I.R 210/49 of B2.St) of Bench Court, Mangalore viz. one gunny bag with about two Kasliges of Beaten rice have been produced before the Bench Court in 523 report No.971 and the receipt of the above properties was acknowledged on 12-11-1949 by the Vice President. The sale proceeds of the beaten rice have not been remitted to the Treasury while the beaten rice has been sent to Co-operative stores along with the seizures shown in item 2 ~~herewit~~ herebelow.

Item No.2 Properties concerned in C.C.No.2042/49 (F.I.R.108/49 ofSouth Station) Viz. ~~1~~ 11 gunny bags and about 14 muras and two kalaseges of boiled rice were sent to the Bench court in 523 report bearing serial No.970. Similarly properties covered by 523 report (Serial No. 969 in C.C.No.2043/49 (F.I.R.206/49 of South Station) viz.two gunny bags containing about 1 ½ muras of boiled rice were sent to the Bench Court Mangalore.

The properties mentioned in items 1 and 2 above were received in that court between 5-11-49 and 8-11-49 as seen from the receipt granted by the Cooperative Stores. even through the acknowledgement for having received these items were sent from the Bench Court on 12-11-1949. There is a receipt No. 7575-1B for Rs.221-5-3 of the A Depot Agent of Mangalore S.K.C.C.W.Stores d/8-11-49 for having received 15 muras of and two kalasiges and two seers of rice from the President, Bench Court Mangalore. The said amount of Rs.221 -5-3 has not been remitted to the Treasury under Criminal Court deposit nor is it forth coming in the Court.

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A P P E N D I X. L.

State

Statement called for in para 3 of the District Magistrate's Ref. 10673/49 dated 6-3-1951.

1. Total amount misappropriated
   (a) Fine Amount.

Para 3 of report vice	Appendix A	318-8-0
-do-	Appendix B	132-0-0
Para 4 -do-	Appendix C	111-0-0
Para 5 -do-	Appendix D	263-12-0
Para 6 -do-	Appendex E	120-0-0
	Total	945-4-0

(b) Amount relating to case properties.

Appendex J	Para 9	170-10-9
Para 11		63-2-6
Para 12		221-5-3
Para 12		40-1-6
	Total amount	495-4-0

(c) The amount shown as in appendex F.and G.in paras 7 and 8 respectively of this report viz. Rs.252-12-0 and 286-8-0 (Total Rs. 539-4-0) has not been treated as the amount misappropriated" at present for the reasons stated in para 7 and 8 in the rep report.

2. No amount has been recovered so far. The amount of Rs.420/- Voluntarily produced by the accused clerk, Janab Abubaker before the police at the time of his arrest has been kept pending for being adjusted towards the amount misappropriated by him.

3. Amount yet to be recovered has been shown in item No.1 above

4 & 5 (Action proposed to be taken has been suggested in the respective paragraphs.

(i) Amounts to be recovered from the President.

As Per Appendex A	Paras 3	318-8-0
-do- -do-	E para 6	65-0-0
-do- -do-	J para 9	170-10-9
	Para 11	63-2-6
	Para 12	40-1-6
	Total	657-6-9

(ii) Amount to be recovered from the Vice President.

Appendex B.	Para 3	132;0-0
Appendex E	Para 6	55-0-0
	para 10	221-5-3.
	Total	408-5-3.

P.T.O.

(iii) Amount to be recovered from the ex-head clerk Janab Abubacker

Appendex C Para 4	111-0-0
Appendex D para 5	263-12-0
Total	374-12-0

(iv) (Not included in items (i) (ii) & (iii) above)

Appendex F -	Para 7	252-12-0
G	" 8	286-8-0
Total		539-4-0

6. Regarding the action to be taken against the persons shown in column 4 I submit that it may be considered after the receipt of the replies tc the notices proposed to be issued against them.

/True copy/

For Collector

-kvr/17-4-1951.

Ref.MHC.10673/49

South Kanara Dt.Magistrate's Office
Mangalore dated 23-4-1951.

From
Sri A. R. Rajaratnam B.A.
Dt.Magistrate of S.Kanara

To
The Secretary to Government,
Home Department Fort St.George,
MADRAS-9

076230
25/4 for 3064/52

Sir

EMBAZZLEMENT - South Kanara District - Court of the I Class Bench of Magistrates Mangalore - Fine accounts and case properties - Forgery and criminal misappropriatinn

---

Ref:- Govt.Memo.No.3064/Courts II/51-6 Home dated 17-4-51.

I invite a reference to the my letter Ref.MHC.10673/49 dated 16-4-51 to the Sub Divisional Magistrate Mangalore a copy of which was submitted to Government. I shall submit my further report by the end of May 1951.

Yours faithfully

For Dt.Magistrate.

p 47 ante

t/p 48-56 ante

Home (Ctts I) dept.
submitted for perusal.
(IT R D. 1-6-51).

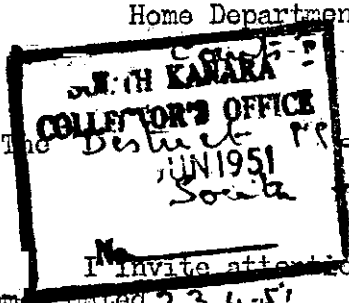
ASSISTANT SECRETARY TO GOVERNMENT
25 APR 1951
HOME DEPARTMENT

SR/23-4

REMINDER

6 & C.W. 3064/50.

GOVERNMENT OF MADRAS
Home Department
Branch.



To
The District Magistrate,
South Kanara.

I invite attention to your Rc. M.H.C. 10675/49 dated 2-3-4-51. and to request that ~~the reply to it may be expedited this reminder may be returned at once with information as to~~

~~(1) the stage at which the matter now is, and~~

(2) ~~the date by which a reply~~ further report may be expedited.

Home Secretariat,
Madras-9,
Dated 1950

For ~~Chief Secy.~~ Secretary to Government

SUBJECT

Embezzlement - South Kanara Dt - Court of the First Class Bench of Magistrate, Mangalore - Bank accounts - Forgery and criminal misappropriation.

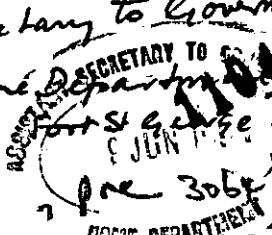
P T O

Ref: MHC 10673-49

69

To

The Secretary to Government
Home Department
Fort St George Madras



Sir,

I have called for further particulars from the Sub Divisional Magistrate Mangalore. His report has not been received. He has been reminded. I shall submit my further report by 25-6-57.

Home (Ch II) Sec

Yours faithfully

Sub Divisional Magistrate in charge, Sonai Kanara

Subd for perusal (M. K.D. 26.6.57).

11.6.57

9.6.57.

70

Ref.C.No.10673-49-MHC. S.Kanara Dt. Magistrate's Office, Mangalore dated 19-6-51.

From

SRI A.R.RAJARATNAM B.A.
Dt. Magistrate, S.Kanara.

To

The Secretary to Government,
Home Department, Fort St. George,
Madras.

Sir,

EMBEZZLEMENT - South Kanara District - Court of I Class Bench of Magistrates, Mangalore - Fine accounts - Forgery and Criminal misappropriation.
Ref: Government Memo No.3064 Courts II/51-6 Home Department dated 17-4-51.
***

In continuation of my letter Ref.C.No.MHC.10673/49 dated 1644-51 I have to report that notices have been issued to the President and Vice President I Class Bench Court Mangalore to remit a sum of Rs.657-6-9 and Rs.408-5-3 respectively being the amount collected but not remitted to the Treasury during the period of their respective sittings.

2. The President has also been requested to issue fresh warrants in respect of the following items with a view to verify whether the accused have paid the fine to the Court.

	Rs.As.Ps.
(i) Fines in respect of which relevant pages in the fine registers have been removed by the clerk.	263-12-0
(ii) Fines imposed during the period 14-7-49 to 11-11-49 when the clerk was working as Head Clerk, and remaining uncollected.	252-12-0.
(iii) Fines imposed prior to 4-7-1949 and remaining uncollected.	286-8-0
	803-0-0

I shall submit a further report within a fortnight.

Yours faithfully

For Dt. M[redacted]

Copy submitted to:
The Secretary to the Board of Rev[redacted]
Land Revenue, Chepauk, Mad[redacted]

The Assistant Registrar, Appell[redacted]
High Court, Madras.

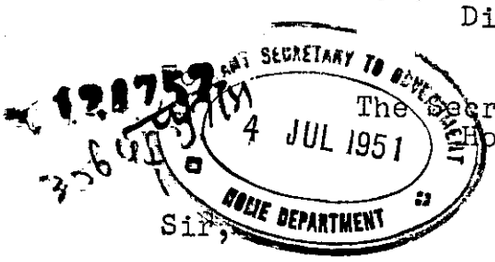
AM-22-6-51.

71

Ref.C.No.10673-49MHC. Office of the District Magistrate,
South Kanara, Mangalore, 2- 7- 1951.

From

Sri. A.R.Rajaratnam, B.A.,
District Magistrate, South Kanara, Mangalore.



The Secretary to Government,
Home Department, Fort St. George, Madras - 9.

Sir,

EMBEZZLEMENT: Ist Class Bench Court, Mangalore
Forgery and misappropriation by ex-clerk - Action.

Ref: Government Memo No. 3064 Courts II/51-6 Home Department dated 17- 4- 1951.
2. My report Ref.C.No. 10673/49 MHC. dated 22- 6- 51.

I invite attention to the final report of the Sub-Divisional Magistrate, Mangalore Ref.C.No. 7449-49-C. dated 27- 3- 1951, a copy of which was submitted with my Ref.MHC.10673-49 dated 16-4-51. Notices to the accused clerk to make good the two items of Rs.111/- and Rs. 263- 12- 0 referred to in paras 4 and 5 of the Sub-Divisional Magistrate's letter cited above, and to the President and Vice-President in respect of Rs. 657- 6- 9 and Rs. 408- 5- 3 referred to in my letter cited above have been issued, and they were directed by the Sub Divisional Magistrate, Mangalore to submit their replies before 15- 6- 1951. The Sub Divisional Magistrate's further report in the matter has not been received. He has been reminded today.

2. The actual amount misappropriated by the clerk out of those mentioned in Appendices D, F and G. to the Sub Divisional Magistrate's report dated 27- 3- 1951 cannot be determined until fresh distress warrants are served on all accused concerned in cases in which the fines are shwon as pending collection. Some of the cases referred to in Appendices G and H. were disposed of in the year 1948, and the accused may not be easily traceable. I have asked the Sub-Divisional Magistrate, Mangalore to make ~~specific~~ special arrangements to get the warrants served. I shall submit a further report before the end of this month.

Yours faithfully,
A.R.Rajaratnam 2.7.51
District Magistrate,
South Kanara.

Copy submitted to:

(1) The Secretary to the Board of Revenue,
Land Revenue, Chepauk, Madras.
(2) The Deputy Registrar, Appellate Side,
High Court of Judicature, Madras with reference to his Roc. No. 220/50-D.1 dated 22- 6- 1951.

Home (Ct II) Dept.

Submitted for perusal. The further report referred to at A above may be awaited till 5.8.51.

7.7.51.

9.7.51.

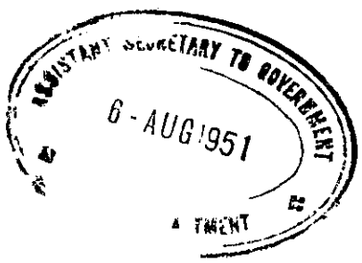
10.7.51

Ref.C.No. 10673/49.MHC

SOUTH KANARA DISTRICT MAGISTRATE'S
Office, Mangalore, dated 3- 8- 51.

From

Sri. A. R. Rajaratnam, B. A.,
District Magistrate, South Kanara.



To

The Secretary to Government,
Home Department, Fort.St.George,
M a d r a s.

Sir,

Sub:- Embezzlement - I Class Bench Court Mangalore - Forgery and Misappropriation- by exclerk - Action.

Ref:- 1)Government Memo No.3064 Courts II/51-6 Home Department dated 17- 4- 1951.
2)Correspondence ending with my Letter Ref.C.No.10673/49-MHC dated 22- 6- 1951.

Since the submission of my report a further instance in which a sum of Rs.51/- being the case property-cash seized from the place of gambling-misapprorpiated by the Ex-Head Clerk of the I Class Bench Court has come to notice. In this case which related to an offence under the Madras Gaming Act, the charge sheet and the properties amounting to Rs.51/- were received in the Bench Court on 19-10-1949. The receipt of the properties were acknowledged by the President of the Bench Court on 19-10-1949 on the Sec.523 Cr.P.C. report without entering in the property Register No.15. The same sum of Rs. 51 was obviously misappropriated by the Clerk. It was the duty of the President to see that all the properties received in Criminal cases were promptly entered in the Property Register and remitted into the Treasury. I have directed the Sub Divisional Magistrate,Mangalore to recover the amount from the President and the Sub Divisional Magistrate has reported that he has sent a notice to the President to make good the amount immediately. The work of checking the amount of misappropriation and recovery of loss has been hampered on account of the non-availability of records relating to cases like these, and the confused manner in which the records are kept. Strenuous efforts are being made to collect particulars from the Police officers who sent their reports on these cases.

2/ The President and the Vice President have not yet made good the amount referred to in para 1 of my letter Ref.C.No.10673/49 MHC dated 19-6-1951. Fresh notices have been issued to them by the Sub Divisional Magistrate,Mangalore to make good the loss before 5-8-1951. Their replies with the remarks of the Sub Divisional Magistrate are awaited.

3/- Regarding the total sum of Rs.803-0-0 referred to in para 2 of my letter Ref.C.No.10673/49 MHC dated 19-6-1951 fresh warants have been issued in respect of Rs.729-0-0. Records relating to the remaining items are being traced out and warrants in respect of them will be issued as soon as the records are available.

4/- Sri.S. Shankara Alva,B.Sc.(Edin) President I Class Bench Court,Mangalore is on leave since 16-7-1951. He has applied for leave of absence for 3 months on grounds of Health. I have called for proposals for filling up the vacancy, as the Vice President has expressed his inability to be in charge of the court during his absence.

Yours faithfully,

For District Magistrate.

Copy submitted to the Secretary to the Board of Revenue Land Revenue Chepauk, Madras.
Copy submitted to the Dy. Registrar Appellate side High Court of Judicature, Madras

kvr/4-8-51.

+/3

Home (Ch II) Dept

The letter from the D.M. South Kanara on page 62 ante is submitted for perusal. The further report of the D.M. regarding A and B on page 62 ante may be awaited. (R.D. 8.9.51.)

8/9/51.

8/9/51.

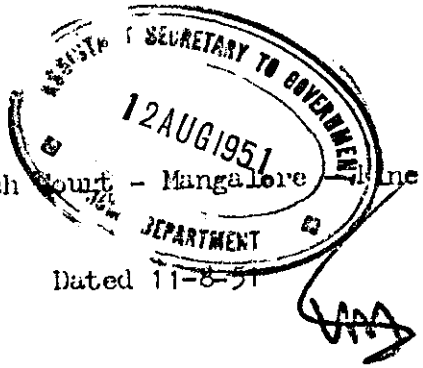
(The proposals referred to at C on p 62 ante may be dealt with separately as and when received.)

9/9/51

Show Clerk 3

11/9/51

Revenue Department
Subject



Embezzlement - (South Kanara) First Class Bench Court - Mangalore - Fine amounts and case properties - Report.

Station:Madras B.P.Rt.5438 Dated 11-8-51

From

Sri A.F. Mascarenhas,I.A.S.,
Secretary, Board of Revenue,Madras

--

Sri W.R.S. Pattianathan,I.C.S.,
Commissioner of Land Revenue.

--

Read:- From the Collector of South Kanara Ref.No.10673/49 MHc d/29-12-49 and further correspondences Ending with his letter d/3-8-51

--

RESOLUTION.

The attention of the Collector of South Kanara is invited to Article 294 of Madras Financial Code which contains the directions as to the main points to be reported in respect of embezzlement cases. Instead of sending numerous interim reports to the Board the Collector is requested to submit only the final report (in triplicate) on the following points as early as possible.

(a) The exact amount misappropriated in all cases.
(b) Whether the whole or any part of the amount has been recovered and the action for recovering the balance.
(c) The result of communal and Departmental action.
(d) Whether any defect has been noticed in the control and procedural rules of REVENUE Department which has facilitated the misappropriation and if so, how the Collector proposes to rectify them.
(e) Whether the negligence of any subordinate under the control of Revenue Department has facilitated the embezzlement and if so the result of action taken against him.

n.t.o.

75

The Collector's attention is invited to the fact that the embezzlement case is pending from December 1949. He is therefore requested to see that no further delay occurs in the completion of the investigations of the case and in sending the final reports to the Board on the points mentioned above.

True Extract

for Secretary

To the Collector of South Kanara
Copy to the Secretary to Government, Home Department, Madras for information

RVK/11-8

Home (Ele.II) dept-

Submitted for perusal. The Collector's final report referred to Lett A on page 64 ante may be availed (R.J. 15-9-51)

17/8/57

17/8/57.

17/8/57

Ref.C.No.10673/49-MIC

South Kanara Dt. Magistrate's Office, Mangalore, D/16-8-1951

From

Sri. A. R. Rajaratnam, B.A.,
District Magistrate of South Kanara.

To

The Secretary to Board of Revenue,
Land Revenue, Chepauk, Madras

Sir,

EMBEZZLEMENT (South Kanara) - I Class Bench Court Mangalore - Fine amounts and case properties - Misappropriation by ex. Clerk - report.

Ref: Board's Ref. B.P.Rt. 5438 dated 11-8-1951.
2. Correspondence ending with my report Ref. C.No. 10673/49 MIC dated 3-8-1951.

The Sub Divisional Magistrate, Mangalore has completed the further scrutiny of the records and registers relating to the Criminal case properties received in the I Class Bench Court, Mangalore. The total loss involved on account of the misappropriation committed by the Ex. clerk comes to Rs.1621-14-0. The circumstances under which the misappropriation was made, and particulars regarding the persons responsible for the misappropriation and the action taken or proposed to be taken against each are as follows:-

2. The First Class Bench Court at Mangalore is presided over by an honorary President and Vice President, in 2 batches. The President holds his Court 3 days in a week and the Vice President once a week. Although according to the instructions contained in Rule 316 of the Criminal Rules of Practice the Presiding Magistrates are responsible for the money received in Court, and clerks are prohibited from receiving cash, in practice, the Bench Clerks in this Court were in temporary custody of the cash till it was credited to the Treasury on the next working day. The fines imposed in criminal cases tried by the Court were entered in the Register of Fines by one of the Hon. Magistrates and the amounts collected then and there were also entered by the same Magistrate in the appropriate columns and entries initialled by the President or the Vice President as the case may be. The amount collected were hand over to the Head Clerk (Bench Clerk) at the close of the court work for the day, for being remitted to the Treasury on the following working day. The Head Clerk is also expected to maintain a daily cash account and get it initialled by the the President or Vice President. The Honorary Magistrates attend Court only between 1 P.M. and 5 P.M. on the days of the sittings. Fines paid by the accused out of the court hours were being received directly by the head Clerk, and receipts passed by the President or Vice President as soon as they attend the Court. The fines collected by the Police, and other properties seized by the Police and produced in Court were also being handed over to the Head Clerk and the acknowledgement of the President or Vice President obtained on the duplicate copy of the police report under section 523 Cr.P.C. This system was obviously working satisfactorily until about June 1949 when Janab Abubakar was posted as Head Clerk of the I Class Bench Court, Mangalore. After he took charge the monthly fine statements relating to the Bench Court were not submitted to the Dt. Magistrate inspite of the remarks in the monthly reviews and issue of reminders and D.Os. The inspection of the Bench Court was done by the Sub Divisional Magistrate, Mangalore in the month of December 1949, and it revealed discrepancies between the fine amounts mentioned in the judgement and those noted in the Fine Register. Some pages of the Fine Registers were found missing. Also proceeds of property confiscated to Government were not remitted to the Treasury and cash seized from gambling

P.T.O.

houses and produced by police were not entered in the Property Register. The Sub Divisional Magistrate reported the matter to the Police who took up the investigation. As various instances of forgery and falsification of accounts had been practised for a considerable length of time, the investigation involved examining of about 700 witnesses. The Dt. Superintendent of Police pleaded his inability to investigate it and find out the exact amount of misappropriation as it was obviously impossible for the police to investigate each case of misappropriation as no proper record of money received in Court, was being maintained the clerk having discontinued the practice of issuing receipts for the fines paid by accused, and ceased maintaining the cash book. For the purpose of the prosecution 3 items of Criminal breach of trust involving fine amounts of Rs.20/- Rs.1/- and Rs.30/- were selected and a charge sheet for offence under section 409 I.P.C. was filed against the clerk on 25-4-50. The case was tried by the Sub Divisional Magistrate Puttur and in C.C. No.68/50 on the file of his court the Magistrate found the accused guilty and sentenced him to undergo R.I. for 3 months and to pay a fine of Rs.300/- or in default to suffer further R.I. for 2 months on each of the 3 charges, the sentence of imprisonment to run concurrently and the total fine payable being Rs.900/-. The accused clerk did not pay the fine and therefore the default sentence of R.I. for six months was also enforced. The Magistrate who tried the case has observed that the misappropriation was occasioned by the callous negligence of duty by the President, of the Court who had not even seen to the maintenance of the Cash Register or to the proper issue of receipts for months together.

3. Details regarding the misappropriation and the amount to be recovered from the President Vice President and the ex-headclerk were furnished in report Ref.C.7449/49-C dated 27-3-51 of the Sub Divisional Magistrate, Mangalore, a copy of which was submitted with my letter Ref. MIC 10673/49 dated 16-4-51. The amounts misappropriated and brought to light in the final scrutiny of records referred to by the Sub Divisional Magistrate, Mangalore in his report Ref.C.No.7449/49-C dated 10-8-51(a copy of which is enclosed) have to be added to the amounts reported as having been misappropriated in the Sub Divisional Magistrate's report Ref.C.No.7449/49-C dated 27-3-51. The abstract of the total amount to be recovered from the President, Vice President and the accused clerk is furnished in para 4 of the Sub Divisional Magistrates report dated 10-8-51. The total amount to be recovered from each is furnished below.

1. Sri S. Shankara Alva, B.Sc.,(Edin) President	Rs.738-12-9
2. Sri. M. Venkatesh Pai, Vice President	408-5-3
3. Janab Abubakar Ex. head Clerk	374-12-0
	Rs.1521-14-0

4. The sum of Rs.738-12-9 proposed to be recovered from the President comprises of a sum of Rs.318-8-0 being the fine amount collected in court in token of which he has initialled in the Fine Register. This amount has not been remitted to the Treasury. The President failed to verify during the entire period of nearly six months whether the amounts have been remitted to the treasury and totally disregarded the instructions in Rule 316 of the Criminal Rules of Practice. A sum of Rs.65/- relates to the fine amounts in respect of which the entries in the Fine Register were tampered with by the ex head clerk. The misappropriation was occasioned by allowing the money to remain with the clerk and for this amount also the President has to hold responsible. Another sum of Rs.170-10-9 represents the value of property confiscated to Government but not remitted to the Treasury. The criminal case properties received in the Court are always in the custody of the President. It was his duty to have seen that the amounts taken out for crediting to the treasury were actually done so and the chalan No. noted in the Property Register. The rest relate to the amounts seized from the gambling places etc. and produced in Court. The receipt of the properties relating to these cases were either acknowledged by the President

P.T.O

President on the duplicate copies of list forwarded along with the properties or the lists were merely filed with case records. In both cases they were not entered in the Property Register. The President is therefore responsible for the loss of these amounts also, as it was his duty to have seen that the Properties were entered in the Register before acknowledging the receipt on the lists under section 523 cr.P.C. Similarly the sum of Rs.406-6-3 proposed to be recovered from the Vice President comprises of a sum of Rs.132/- being the fine collected according to the fine register, a sum of Rs.55/- relating to the entries in the fine register tampered with by the clerk and which relate to cases tried at the sittings of the Vice President. A sum of Rs.221-6-3 relates to the sale proceeds of seizures not credited to Government.

5. The Sub Divisional Magistrate, Mangalore directed the President and the Vice President on 7-6-51 to make good the loss of Government money caused on account of their negligence, but they have not complied with the request. The President has replied that the amounts of fines etc. are handed immediately to the clerk of the Bench Court and no further responsibility rests with the President. He has also stated that there are no definite orders from Government making the President and the Vice President responsible for money collected in the Court. I submit in this connection that no specific order of Government is necessary about this. The Hon. Magistrates of the Bench Courts have not been exempted from the provisions of Rule 316 of the Criminal Rules of Practice and orders, and it was made abundantly clear to the then President in Dt. Magistrate's letter dat.L.Dis. 2075/35 dated 10-6-35 that the President and the Vice President are responsbile for the money until it has been credited into the Treasury . Sri. S. Shankara Alva has also represented that the misappropriation was first detected by him on 15-12-49 and not by the Sub Divisional Magistrate. This is not borne out by any records. The President did not send any report regarding the misappropriation. On the other hand he has deposed in the Criminal Case against the Clerk that it was only when the Sub Divisional Magistrate inspected the registers that the (President) came to know that the fine register had been tampered with by the accused, by making unauthorised corrrections and that the fine collected had not been remitted to the Treasury in full. There can be no doubt that it was the lamentable lack of supervision by the President and the Vice President that led to the misappropriation.

6. A sum of Rs.374-12-0 is due to be recovered from the Ex. Clerk Abubakar being the fine amount collected by him. He has admitted before the trying Magistrate that he was collecting the fine amounts in the absence of the President and Vice President. Out of this a sum of Rs.111/- represents such collections and the balance of Rs.263-12-0 relates to entries in the pages of the Fines Register found removed at the time of inspection by the Sub Divisional Magistrate Mangalore. The amounts relating to the on these pages had not been credited to the Treasury. The natural presumption is that the clerk must have misappropriated the amount and destroyed the relevant pages in his attempt to destroy evidence. A sum of Rs.420/- being a part of the amount misappropriated by the accused clerk was produced by him before the Police. It is now in the Court of Sub Divisional Magistrate, Mangalore. The sum of Rs.374-12-0 due from the clerk may be recovered out of this amount. If this is done, out of the total defalcation of Rs.1521-14-0 a sum of Rs.1147-2-0 will remain to be collected from the President and Vice President. The accused clerk is reported to be a young man and a first offender. He has undergone R.I. for 9 months. After his release from the Jail he has left for Bombay and his present whereabouts are not known. I do not think that any public purpose would be served by launching fresh prosecutions for each and every item of misappropriation.

Janab Abubaker was a temporary clerk. Immediately after his arrest he was placed under suspension and his services terminated. I recommend that he may be debarred from holding any appointment under the Government in future. The Clerk who misappropriated the Government money has admitted the offence. There is no reason to believe that the President and the Vice President were in conspiracy with the Clerk. There are therefore no grounds to launch criminal prosecutions against them. The question for consideration is whether they should be directed to make good the loss to Government whether in the event of their refusal to make good the amount, a suit should be filed against them. The Sub Divisional Magistrate Mangalore who consulted the local Government Pleader about this has reported that the latter is of opinion that recovery can be effected by resorting to a Civil Court. The work is done by these gentlemen as honorary workers and they relieve the stipendiary magistrates of a lot of work. It is for consideration whether any action for recovery of the amount should be taken against these honorary magistrates who do the work as a spare time honorary work and whether the amount cannot be ordered to be written off.

I have not observed any defect in the control and procedural rules of the Revenue Department which has facilitated the misappropriation. The misappropriation was occasioned by the failure of the Presiding Magistrates to observe the rules. I have since issued instructions to all the Magistrates in the district to verify the Fine and Property Registers once a month and submit reports to the Sub Divisional Magistrates. The Sub Divisional Magistrates have been directed to check the Fine and Property Registers of all the subordinate magistrates once a Quarter and submit a report to the Dt. Magistrate. In this case the embezzelment was not facilitated on account of the negligence of any subordinate under the control of the Revenue or any other department but solely on account of the negligence of Hon. Magistrates concerned.

Yours faithfully,

1835

For Dt. Magistrate.

Enc:

Copy submitted to the Secretary to the Government, Home Department, Madras with reference to Govt. Memo No.3064 Courts II/51-6 dated 17-1-51

Copy submitted to the Registrar of High Court of Judicature Madras with reference to High Court letter Roc. No.220/50-D1 dated 22-6-51.

ks/17-8

17/8

Home (Cts II) asst

The copy of the letter at pp 66-68 ante addressed to the Board of Revenue and the enclosure at pages 70-73 infra are submitted for perusal. The remarks of the Board of Revenue on the original suit to it may be awaited. (R.D 25-9-51)

A at p 66 note and B at p 68 infra

23/8/51

28/8/51

76

Copy of letter Ref.C.No.7[illegible] dated 10-8-1951 of the Sub Divisional Magistrate, Mangalore, to the District Magistrate, South Kanara.

Sub:- Embezzlement - I Class Bench Court - Mangalore - Forgery and Misappropriation by ex-clerk - Further report submitted

Ref:- Your Letter Ref. 10672/49 MHC dated 27-7-1951.
2.This office Ref.7449/49C dated 31-7-1951.
3.Your letter Ref.10672/49 MHC.dated 3-8-1951.

In continuation of my reference 2nd cited I submit that I have held further scrutiny of the records and registers relating to the criminal case properties received in the I Class Bench Court Mangalore during the period when the accused clerk was working in that court. To ensure a complete check I have looked into the records relating to some time before and after the accused clerk was working there. All cases which were pending and disposed of at the time he was working in that court have been scrutinised.

2. As a result of the further scrutiny after tracing the records of certain cases which were not forthcoming at the time of my original inpsection as shown in last para of Appendix C to the notes of inspection dated 31-3-50 for the year 1949 the following further items of misappropriation of case properties have been noticed
1) C.C. 1535/49 relating to the petty case Nos 132/49 of Moolky Station was taken on file of the Bench court, Mangalore on 23-8-49. The receipt of the case properties received along with the charge sheets was acknowledged by the President on 23-8-49 itself when the accused clerk was the clerk in charge but the properties so received namely cash to the tune of Rs.355-6 have not been entered in the property register nor are they forthcoming in that court. This amount has not been accounted for and has therefore to be treated as misappropriated by the accused clerk. It was the duty of the President, while taking the case on file, and acknowledging the receipt of the properties in question, to have been that all the properties were entered in the register and the cash and valuables kept inside the strong room. He has not noticed the fact of non existance and misappropriation of this amount either while disposing of the case. As such the President will have to make good the amount namely Rs.3-6-6.
2) Another similar instance has also been detected in C.C.No.1548/49 to 1550/49 relating to Moolky Station Petty case No.123 to 125/49 A sum of Rs.14-7-4 along with someneon-valuable properties was received with 523 report in that court and the receipt of the above properties was acknowledged by the President on 22-8-1949. The cash as also the non-valuable properties, have not been entered in the property register But the cash relating to this item has been entered against P.R.232/49 relating to C.C.1969 and 1970 of 1949, petty case charge sheets 501 and 502 of B1 station. The non valuable articles have not been entered any where nor are they forthcoming in the court.
3) In C.C.1969 /49 and 1970/49 a sum of Rs.11-1-6 seized by the Police in B1 Station Petty case Nos 501 and 502/49 were sent to the Bench Court with two copies of the 523 reports. Both the copies of the 523 reports have been filed without sending the duplicate copy to the station concerned with the acknowledgement. The amount relating to these two cases has been brought to account as P R .432/49 accounting for Rs.14-7-4 thus involving an excess amount of Rs.3-5-10, Obviously the cash in respect of C.C.1548/49 to 1550/49 referred to in item (2) above has been entered in the P.R. against C.C.1969 to 1970/49 The entry seems to have been made falsely with a view to prevent detection. Thus an amount of Rs.11-1-6 relating to C.C.1969 to 1970/49 has been misappropriated as stated in para 2 above. Here also it was the duty of the President while attesting the entries in the P.R Register to have checked it with the 523 report and detected the mistake His failure to do so has enabled the accused clerk to misappropriate amount of Rs.11-1-6. The President is liable to make good this amount
4) Similarly properties involved in C.C.1729 to 1735/49 relating to petty case Nos.228 to 234/49 of B2 station viz: cash amounting to Rs.7-0 received and acknowledged by the President, but not entered in the Property Register, nor are they forthcoming. The President should have got the corresponding entry made in the property register while acknowledging receipt and this has enabled the accused clerk to misappropriate that amount. The President who has acknowledged

[illegible] taking steps for its proper custody is liable to make good the loss.

5) An instance of misappropriation where a cash amounting to Rs.51/- relating to C.C.1963/49(P.C.Nos.486/49/B dated 28-6-51 after the submission of my final report dated 27-3-51. This item has to be taken into account now while determining the total loss to Government

6) In C.C.1966/49 Crime No.1944/- 194/49 of B2 station a sum of Rs.7-8-0 being the sale proceeds of two Kabiges of beaten rice received in court bei on 22-10-49 with a s 523 report has not been credited to the Treasury A cash receipt for Rs.7-8-0 issued by the S.K.C.C.W.Stores to which the beaten rice had been delivered is filed in the connected case records. The amount of Rs.7-8-0 had to be remitted to the Treasury under the head Criminal court deposit. The Criminal court deposit register for the the period in question available in the Sub Treasury Mangalore does not show any entry regarding the remittance of the said amount. That amount has therefore to be treated as misappropriated by the accused clerk. The President ought to have seen that the properties and cash(including sale proceeds) received in court are entered in the property Register No.15 maintained in court. His failure to do so has enabled the clerk to misapprpriate that amount. The loss is therefore recoverable from the President.

7) InC.C. 1965/49 B2 station Cr.No.195/49 two Kalasiges of Beaten rice seized by the Police are seen to have been produced before the President I Class Bench court Mangalore in 523 report serial no.965 The properties so sent by the police have not been entered in the property register nor was any acknowledgement sent to the Police regar the receipt of the above items. The two Kalasiges of beaten rice are not forthcoming in the court at present nor is there any reference regarding the delivery of the beaten rice to the S.K.C.C.W.Stores to which the beaten rice had to be immediately delivered being a perishable article. In this case the responsibility can not be placed on the President nor on the accused clerk as there is no evidence to show that the above properties have been sent to court. This cannot therefore be treated as an item of misappropriation for which either the accused clerk or the President can be made responsible.

3/- Properties received in C.C.1527/ to 1533/49 relating to petty case No.188 to 194 of 1949 of Mangalore North Station and entered as P.R.138/49 could not be verified as the connected case records are missing. Out of these cases C.C.1527 to 1530 and 1532 to 1533 of 1949 were disposed of by the President sitting with his section of the Bench on 22-6-1950. All those cases filed under Madras Gaming Act ended in the acquittal of all the accused and the properties have been ordered to be returned to the persons from whom they wereseized. C.C. 1531/49 also under the Madras Gaming Act was disposed of by the Vice President on 26-6-1951 acquitting the accused under section 245 Cr.P.C. and ordering the return of the properties seized to the persons from whom they wer seized. I have made a thorough search for those records and they have been found missing. I have informed this to Sri.M.Venkates Rai Vice President in charge. The particulars of the properties seized in thosee cases could not be verified as the 523 reports sent by the police station are not forthcoming not only in the Bench Court but even in the Police station. There is no other record about those seizure with the police. In the absence of the case files or the office copies of the 523 reports it is not possible to know whether all the properties seized have been entered in the Property Register while entering them under entry P.R.No.138/49. The items of properties entered in the P.R.register are however forthcoming. In those circumstances I am unable to state definitely if there is any misappriation of the properties in those cases.

4. The further items of misappropriation detailed in sub para (1) to (5) of para 2 above are all recoverable exclusively from the President as stated against each. The total loss involved on account of the misappropriation committed by the accused clerk is as per details shown below.

I.Collectable from the President Sri. S.Shanker Alva.

(1) Fines Appendix A 66 report d/27-3-51. Rs.318-8-0

-do- E

Property item-

2.

3. Property item now detected and reported. Para -2- (1) Rs. 2-5-6
(2) Rs. 11-1-6
(4) Rs. 8-7-0
(5) Rs. 51-0-0
6) Rs. 7-8-0

Rs. 81-6-0

Grand Total Rs.738-12-

II Collectable from Vice President Sri. M Venkatesh Pai.

I.Fine appendix B to report d/27-3-51. Rs. 132-0-0 (para 3 of report d/27-3-51.
Rs. 55-0-0 (para 6 -do-)
Rs.221-5-3 (para 10 -do-)
Rs. 408-5-3 Rs.408-5-3

III Amount recoverable from accused clerk and not recoverable from President or Vice President.

1. Fine Appendix C of report d/27-3651 Rs. 111-0-0 para 4 of repor d/27-3-51.
2. Fine " Rs.263-12-0 para 6 -do
Rs. 374-12-0
Grand Total Rs. 1521-14-0

This does not include the amounts covered by Appendix F & G of my report dated 27-3-1951 (para 7 and 8) respecti ely of that repor for w ich action is being taken for col ection through the police by the issue of Non Bailable warrants and D.Ws as ordered in Dt.Magistrat R.f.10673/49 MHC d/16-4-51. The loss involved to Government in respect of items listed in Appendix F and G by misappropriation if any can be determined only after all the N.B.Ws and D.Ws are executed and the parties produce proof of payment of the fines and taxes shown as due from them.

5/- As directed by the Dt.Magistrate I have already consulted the public prosecutor Mangalore regarding the ways and means of collecting the amount of loss recoverable from the President and the Vice President. T i fact and the nature of legal advice given by the Public Prosecutor has been reported already in my Ref.C.No.7449/C/49 d/31-7-51. In response to my further notice dated 31-7-51 to the President and the Vice President calling upon them to pay up the amoun by 5-8-51 neither of them has sent any reply. I have therefore not issued a fresh notice to the President in respect of the further items covering Rs.81-0-0 as I consider it to be of little use doing so before submission of this report. If necessary further notices will be issued to him about it. I have also to presume that both the President and the Vice President are not prepared to comply with the direction given in that notice and stick to their original stand taken by them that as Honorary Magistrates, without any instructions or experience, are not responsible for the disposal of the fine amounts etc., Relying the instructions contained in rule 316 of the Criminal Rules of Practice the President and Vice President have to be proceeded against, leagally as advised by the Government Pleader Mangalore. But before having recourse to legal steps against them it may be considered whether the facts should be reported to Government and orders of Government obtained.

6. With reference to para 2 of your letter 3rd cited while the total amount covered by Appendix D,F and G is Rs.803-0-0 from a perusal of the records of the Bench court relating to the issue of warrants reported in the President's report Ref.117/51-A dated 18-7-51 and 26-7-51 it is seen that warrants have been issued in respect of a total sum of Rs.716-0-0 only and warrants have yet to be issued in respect of 10 items covering a total sum of Rs.87-0-0

The differenes between the figures now reported by me and those reported by the President of the Bench Court is due to a ~~clerk~~ clerical error in totaling up the amount of the warrants issued [illegible] issued are the following:

P.T.O.

~~following:~~

B.C. 1458/47	Rs. 1-0-0
2041/4	Rs. 50-0-0
188/49	Rs. 1-0-0
238/49	Rs. 5-0-0
279/49	Rs. 15-0-(
1134/49	Rs.1-0-0
1335/49	Rs. 3-0-0
1573/49	Rs. 5-0-0
1801/49	Rs. 2-0-0
2083/49	Rs.4-0-0
	Rs.87-0-0

The warrants in respect of these items have not been issued by the President Bench court as the records were mislaid temporarily. I have since got all those records traced out during my further inspection and instructed the Head Clerk to put up warrants immediately. I shall see that the warrants are issued today itself.

/True copy/

~~For Collector.~~

kvr/17-8-51.

81

Revenue Department.
Subject.

Embezzlement (South Kanara) I Class Bench Court Mangalore Fine amounts and - by clerk - Report.

Station: Madras. Ref. T/C. 9782/51-2. dated 16-10-51.

From

189299 17.10 Sri A.F. Mascarenhas I.A.S. Secretary, Board of Revenue.

Sri W.R.S. Sattianathan I.C.S. Commissioner of Land Revenue.

Read: From the District Magistrate and Collector South Kanara. Ref. No. 10673/49. M H C. Dated 16-8-51.

Reference.

The Board invites attention to the Government to the collector's report cited above a copy of which has been submitted to them direct with reference to Memo. No. 3064/50-6 dated 17-4-51. The Board supports the collector's recommendation in para 7 of his letter that the ex-clerk Janab Abdubakes be debarred from Public Service. The details regarding the ex-clerk's parentage, caste residence etc. are given in the copy of judgement No. 68/1950 of S.D.M. Puthur convicting him which was submitted to Government with collector's report Rec. 10673/49 dated 30-9-50.

The Board will submit a further report to Government on the other points in the collector's letter on receipt of further details called for from the collector in para 2 below.

2. The collector is informed that as administrative control over Honorary Magistrates does not vest in the Board, the question whether any action is necessary against the Honorary Magistrates of the I Class Bench Court Mangalore for recovering from them the amount embezzled by the ex-clerk should be addressed to the Government in the Home Department through the High Court for decision. The Collector is requested to take action accordingly.

3. In the last sentence of his letter the collector has stated that the embezzlement was not facilitated on account of the negligence of any subordinate under the control of the Revenue Department. The attention of the collector is invited to G.O. 2538 Law (General) dated 31-7-33 which enjoins that the fine and property registers of I Class Bench Courts should be inspected by the S.D.Ms. every three months and a reports of such inspection submitted to the District Magistrate. In this case the embezzlement was going on for a period of six months from July 1949 to December 1949 and was detected by the S.D.M. during his annual inspection in December 1949. The Board observes that if the prescribed quarterly inspection of the fine and property registers by the S.D.M. had been regularly done, there should have been such an inspection by the Sub Divisional Magistrate in September 1949 and if such inspection in September 1949 had been done there would not have occurred misappropriation of such large amounts and could have been prevented early. The Collector is therefore requested to report urgently on this point.

For Secretary.

To The Collector of South Kanara
The Secretary to Government, Home Department.
Copy To the Asst. Registrar Appellate, Side, High Court. Madras. with reference to his letter Rec. 220/51. dated 7-9-51.

Home (Ele) dept.
Subd for perusal. Action with reference to A above may be taken separately on receipt of the proposals of collector's further report referred to at 2 above when received. C.R.D. 20-11-51

Ref.C.No.10673/49 MHC (1). S.K.Dt.Magistrate's Offi Mangalore dated 12.11.51

From

SRI A.R.RAJARATHAM B.A.,
Dt.Magistrate, South Kanara.

ASSISTANT SECRETARY TO BOARD
15 NOV 1951

To

The Secretary to the Board of Revenue,
Land Revenue, Chepauk,
Madras. 5.

Sir,

208338

EMBEZZLEMENT (South Kanara) - I Class Bench Court, Mangalore Fine amounts etc. by clerk - further report.

Ref: Boards Ref. T/C 9782/51-2 dated 16.10.51.

In the Boards reference cited above I have been asked to report whether the I Class Bench Court, Mangalore was inspected by the Sub Divisional Magistrate Mangalore during the quarter ended 30.9.1949. According to the instructions contained in G.O.No.2538 Law (General) dated 31.7.1933 the Sub Divisional Magistrates are required to inspect the Fine and Property Registers of the I Class Bench Courts once in 3 months and report to the District Magistrate. The receipt of the reports is watched by means of a periodical in my office. I find from the periodical files of my office that the I Class Bench Court, Mangalore was not being inspected regularly by the Sub Divisional Magistrate Mangalore. The report for the quarter ended 31.3.1949 was not received till August 1949, inspite of the issue of reminders and a D.O. In reply to the D.O. Hanab S.Abdul Rahiman, the then Sub Divisional Magistrate, Mangalore reported that he could not verify the properities received in Criminal cases in the I Class Bench court during the quarter anded 31.3.1949. However he reported that the registers realating to the property, fines and cash were inspected on 2.8.1949. This inspection seems to be for the quarters ended 31.3.1949 and 30.6.1949 ~~was dated~~ The report for the quarter ended 30.9.1949 was also not received in time. In reply to a D.O. he reported on 26.11.1949 that the President of the Bench Court had requested for time till 29.11.1949 for the verification of the property due to his absence from Mangalore. The Sub Divisional Magistrate promised to inspect the fines and properties on 29.11.1949. It is not known whether he inspected the Court on 29.11.1949 as promised. However his report regarding it is not available in this office. I have asked the S.D.M. Mangalore to report whether the records of the Bench Court for the quarter ended 30.9.1949 were inspected on 29.11.1949 and if so to send a copy of the report. His report has not yet been received. Obviously the fine and property registers for the period dnding 30.9.1949 were not inspected on 29.11.1949 also; otherwise the embezzlement would have been detected in November 1949 itself. Sri.S.U.Parasurama Nayk B.A.B.L., the present Sub Divisional Magistrate Mangalore Mangalore took charge on 7.12.1949 and held the annual inspection on 25.12.1949. Even assuming that the President was absent and requested for time, the Sub Divisional Magistrate M should not have postponed the quarterly inspections as the vice President would have been in charge and an inspection of the Fine Register in Septmebr 1949 would have revealed the misappropriation much earlier.

Yours faithfully,

For Dt.Magistrate.

Copy submitted to the Secretary to Government Home Department, Madras.

Copy submitted to the Assistant Registrar, Appellate Side, High Court Madras.

.N.13.11.

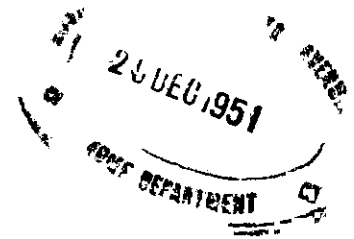
208338

Office of the Board of Revenue,
Chepauk, Madras, Dt.26-12-51.

From
The Secretary to Board of Revenue,
(Land Revenue),
Madras, 5.

To
The Assistant Registrar,
(Appellate side),
High Court, Madras.

2300/51
29/12/51



No.L.Dis. T/C 4782/51 dated, 28-12-1951.

Sir,

Sub: Embezzlement - (S.K)- Ist Class Bench Court - Mangalore - Fine Amounts etc- by ex-clerk - Departmental Action.

NC

Ref:- Your letter ROC.No.220/50 D1 dated, 3-12-1951.
From District Magistrate of South Kanara
No.10673/49-MHC. dt.12-11-51.

PPS-1 above

I am to say that the Board has passed orders directing that charges be framed against the Sub Divisional Magistrate concerned why he should not be reduced in time scale of pay by one stage.

Yours sincerely,

For Secretary.

Copy submitted to Secretary to Government, Home Department, Madras with reference to Ex.Reminder dt.19-12-51 which resubmitted.

Home (Cels. II) DPC

Submitted for perusal.
The High Court's final report may be awaited till 25.1.52

C.N. 3064

1,500,000—25-9-50

Home Department.

REMINDER. Courts II Branch.

To The Board of Revenue,

T-299 Madras

I am directed to invite attention to letter Ref. C No 10673/49. H.4.C (3) D/12-11-51. from the D.H. Sec. K to, dated Kanara, and to request that the remarks thereon reply to it may be expedited

Request that this reminder may be returned at once with information as to—

(1) the stage at which the matter now is,

(2) the date by which a reply may be expected, and

(3) the circumstances which have caused the delay

Office Home Secretariat.

Station Fort St. George, Madras.

Signature.

Designation. for Asst Secretary to Govt

Dated 19-12-51.

SUBJECT. Encroachment - South Kanara District. 1st class Bench Court, Mangalore - Fire arms - Forgery and Criminal appropriation.

P.T.O.

R.O.C.No.220/50-D1.

From

Sri S. Srinivasa Ayyar, B.A., B.L.,
Registrar, High Court,
Madras.

To

The Secretary to Government,
Home Department (with an enclosure)

22-1-1952.

Sir,

Sub:- Misappropriation of Public money - First Class Bench Court, Mangalore (S.Kanara District) Recovery of.

11921

Ref:- Correspondance resting with the letter Ref.C.No. 10673/49 M.H.C(i)dated 12-11-1951 from the District Magistrate, S. Kanara to the Secretary to the Board of Revenue- copy communicated to you.

I am to forward for orders of Government the letter Ref. Rc. 10673. MHC (2) dated 12.11.1951 from the District Magistrate, S. Kanara on the subject cited. The Hon'ble the Judges are of opinion that lack of supervision on the part of the then President and Vice President of the Bench Court and neglect on the part of the then Sub-Divisional Magistrate in not having inspected the fine register as required under G.O.No.2548 Law (Gnl) dated 31-7-1933 have led to the misappropriation. The Board of Revenue has intimated the High Court that disciplinary action is being intiated against Janab S. Abdul Rahman the then Sub-Dvl.Magistra

Registrar.

AR

Ref.C.No.10673/49 MHW (2)/ S.K.Dt.Magistrate's Office,
Mangalore dated 12.11.51.

From

SRI A.R.RAJARATNAM B.A.,
Dt.Magistrate, South Kanara.

To

The Secretary to Government,
Home Department, Fort St.George,
Madras 9.

Through,

The Registrar,
High Court of Judicature,
Madras.

Sir,

EMBEZZLEMENT - (South Kanara) I Class Bench Court, Mangalore writing off.

pp 76-79 above Ref: 1. My letter Ref.C.No.10673/49 MHC dated 16.8.1951.
p 84 above 2. Board of Revenue Ref.T/C 9782/51-2 dated 16.10.1951.

In invite the attention of the Government to para 7 of my report cited above. The Board of Revenue has observed that as the administrative control over Hon. Magistrates does not rest in the Board the question whther any action is necessary against them should be referred to the Government. As already reported in para 6 of my report out of the total amount misappropriated by the ex-clerk of I Class Bench Court, Mangalore a sum of Rs.1147.2.0 will have to be collected from the President and the Vice President of the Court. Under the circumstancesstated in my letter referred to above I solicit instructions whether any action for recovery of the amount should be taken against the Hon. Magistrates concerned.

Ā as p. 84 above

p 98 ante

Yours faithfully,

13/11

For District Magistrate.

MN.13.11.

13/11

Roc.No.220/50-D1

From

Sri V. Krishnaswamy, B.A., B.L.,
Assistant Registrar- Appellate Side,
High Court, Madras.

To

The Secretary to Government,
Home Department (with enclosure)
Fort St. George, Madras.

dated: 22-2-1952.

Sir,

Sub:- EMBEZZLEMENT - South Kanara District - First Class bench Magistrate's Court.

36039

In continuation of the High Court letter Roc.No.220/50-D1 dated 22.1.1952, I am to forward letter Ref. C.No. 10673/49 M.U.C. dated 13.2.1952 received from the Dt. Magistrate, South Kanara on the subject cited.

V. Krishnaswamy 28/2
Assistant Registrar. (A.S.)

Copy to: The Dt. Magistrate, South Kanra.

AR

Ref: C.No.10673/49 MHC.

South Kanara Dt. Magistrate's Office, Mangalore Dated.13.2.1952.

From

Sri A. R. Rajaratnam,B.A.,
District Magistrate,
South Kanara, MANGALORE.

To

The Secretary to Government
Home Department,
Fort St. George, MADRAS ,9.

Through

The Registrar,
High Court of Judicature,
MADRAS.

Sir,

EMBEZZLEMENT (South Kanara) I Class Bench Court, Mangalore - Writing off -
Ref: 1. Board's Ref:T/C 9782/51-2 dated 16-10-51
2. My report ref: C.No.10673/49 MHC (2) dated 12-11-1951 -

p 84 ante
p 85 ante

I invite your attention to my letter cited above submitted through the High Court and request that the orders passed in the matter, if any, may be communicated to me.

2. I have to bring to the notice of the Government that Sri M. Venkatesh Pai, Vice President, I Class Bench Court, Mangalore has since expired.

Yours faithfully,

For Dt. Magistrate.

ksl njn-15-2-

99

"CONFIDENTIAL"
Urgeht.

Home Department.

Memo. No. 3064 Courts II/52-9 Dated 14.7.52

Embezzlement - South Kanara district - First Class Bench Court, Mangalore - Fine Amounts - Forgery and criminal misappropriation by the then Head clerk - Recovery of part of loss from the President.

Ref: From the D.M., South Kanara, Ref.C.No. 10673/49.M.H d/13.2.52.

In his letter Ref.10673/49.M.H.C., dated 27.2.50, the D.M., South Kanara has stated that a previous D.M. had in his proceedings M.L.Dis. 2075/35, d/10.6.35 directed the continuance of the practice in the Bench Court, Mangalore, viz., to permit the Head clerk of the Court to keep the fine and cash in his custody pending remittance to the Sub-Treasury, Mangalore, it being understood that the President and Vice President were responsible for the fine money until it had been credited into the Sub-Treasury. It has been suggested that the fact that a previous President was informed is not sufficient to fasten liability on the President in question and that the latter will be liable only or knowledge on his part of the previous proceedings of the D,M. referred to above could be proved.

The D.M. is therefore requested to report, not later than 10.8.52, whether it can be proved that Sri Shankara Alva the President concerned in this case had knowledge of the instructions issued by the previous D.M. in 1935 referred to above.

/the D.M., S.Kanara.
py to the Bd. of Rev.
py to the Regr., High Ct., Madras.

(R.D. 11.8.52.)

Home Exhj

101 Home Dept

urgent

Memo No. 3064 cts II/50-11 dated 19/7/52

19.7.52

Embezzlement - South Kanara district - First class Bench Court Mangalore - Fine Amounts - Forgery and criminal misappropriation by Jamal Abubaker, ex-clerk - Particulars called for.

Ref:- From the District Mgte, South Kanara Ref. Cno. 10673/49. Mtc Of 13.2.52 Memo No. 3064 cts II/50-9 Home dated 14.2.52

— x —

The District Magistrate, South Kanara is requested to furnish, not later than 10-8-52, the particulars regarding the residential address, date of birth and

p 77 cf

p 99 cf

w h / 19 NT

102

marks of identification of Janab Abubaker, Excleik, First class Bench Court, Mangalore.

19.7.1952

18.7.52

18/7/52

19/7

To

The District Magistrate
Sarita Kanara
Mangalore.

[R.D. 11-8-52]

Ref.C.No.10673/49-MHC.

S.Kanara Dt.Magistrate's Office,
Mangalore dated 8.8.52.

From

Sri C. H. Ramakrishnan I.C.S.
~~SRI A.R.RAJARATNAM B.A.S~~
Dt.Magistrate, South Kanara.

To

The Joint Secretary to Government,
Home Department, Fort St.George,
Madras 9.

Sir,

8 AUG ... HOME DEPARTMENT

EMBEZZLEMENT - South Kanara District - First Class Bench Court Mangalore - fine amounts - forgery and misappropriation by Janab Abubaker Ex.Clerk - particulars furnished.

Ref: Government memo No.3064, Courts II/50-11 dated 19.7.52.

~~Aje~~ Janab Abubaker was a temporary clerk and no service register was opened for him. His exact date of birth is not known. However from the particulars gathered from the case recor in which he was convicted the following information is furnished.

Name: Janab Abubaker.
Residential address: Abubaker S/o K.Mammunhi, residing at Kudroli, Mangalore.
Date of birth: Not known - aged about 25 years now.
Identification: Height 5'8" - one black mole on the stomach and two vaccination marks on each arm.

145370

Yours faithfully,

For Dt.Magistrate.

AM/5-8-52.

102

Confidential.
Ref.C.No.10673/49 MHC

S.K.Dt. Magistrate's Office,
Mangalore dated 26.7.52.

From

Sri A. R. Rajaratnam, I.A.S.,
District Magistrate, South Kanara.

To

The Joint Secretary to Government,
Home Department, Fort St. George,
Madras 9.

Sir,

SUB: EMBEZZLEMENT - South Kanara District - First Class Bench Court Mangalore - fine amounts - Forgery and Criminal misappropriation by the then Head Clerk - Recovery of part of loss from the President

****

REF: Government Memo. No.3064 Courts II/50-9 dated 14.7.52.

The Sub Divisional Magistrate Mangalore who was asked to report whether Sri Shanker Alva President of the Bench Court Mangalore had knowledge of the instructions issued by the then District Magistrate in his M.L.Dis.2075/35 dated 10.6.35, reports that there is no correspondence in his office drawing the attention of the President to the District Magistrate's instructions issued in 1935. There are also no records in my office in which the attention of the President was invited to those instructions. Sri Shanker Alva when consulted by the Sub Divisional Magistrate Mangalor has stated that he was not aware of the order and that he was following the practice of handing over the cash to the clerk at the end of the day for remittance

Yours faithfully,

District Magistrate.

159133
392
mn.28.7.

162130

ABSTRACT.

PUBLIC SERVANTS-Abubaker, Mr. formerly Clerk, First Class Bench Court, Mangalore South Kanara District-Exclusion from Public Service-Notified.

PUBLIC(SERVICES) DEPARTMENT.

G.O.Ms.No.2167 Dated, the 4th September 1952.

O R D E R.

The following notification will be published in the Fort St. George Gazette.

N O T I F I C A T I O N.

Mr. ABUBAKER, formerly clerk, First Class Bench Court, Mangalore, of whom particulars are given below was dismissed from public service. He is debarred from re-employment in any department of the public service.

PARTICULARS.

Father's name:	Keniel Mammunhi.
Address:	Kudroli, Mangalore, South Kanara District.
Religion and Caste:	Muslim(Moplah.)
Date of birth:	Not known-aged about 25 years
Height:	5'8''
Marks of Identification.	One black mole on the stomach and vaccination marks on each arm.

Home Dept
Submitted for perusal. The main file relating to the misappropriation committed by the ex-clerk has been sent to the Mining Department for their remarks.
6/9/52

(BY ORDER OF THE GOVERNOR)

K. RAMUNNI MENON,
CHIEF SECRETARY TO GOVERNMENT.

To the District Magistrate, South Kanara.
" the Registrar, High Court, Madras.
" the Board of Revenue, Madras.
" the Secretary, Madras Public Service Commission, Madras.
" the Superintendent, Government Press, for publication in the Fort St. George, Mx Gazette. /To the Home Department.
" the Director, Intelligence Bureau, New Delhi.
" the Deputy Inspector General of Police, Railways and C.I.D., Madras.
" the District Superintendent of Police, South Kanara District

/True Copy/
Forwarded/By Order

KLN/4-9.

SUPERINTENDENT.

Confidential:

REVENUE DEPARTMENT

SECRETARY TO GOVERNMENT
1 SEP 1952
REVENUE DEPARTMENT

Subject

DEPUTY COLLECTORS - (South Kanara) -Embezzlements in the First Class Bench Court, Mangalore -Disciplinary action against Abdul Rahman, Janab S. and Parasuram Nayak, Sri S.U. - Report submitted.

Ref.No.D.13712/51(C)

Station:-Madras. Dated 8th September 1952.

From

Sri A.F.Mascarenhas, I.A.S.,
Secretary, Board of Revenue, Madras.

..

Sri V.N.Kudva, I.C.S., Commissioner of Commercial Taxes.
Sri V.S.Hejmadi, I.C.S., Famine Commissioner.
Sri W.R.S.Satthianadhan, I.C.S., Commissioner of Land Revenue.
Sri M.V.Subramanian, I.C.S., Commissioner of Civil Supplies and Food Production.
Sri T.N.S.Raghavan, I.C.S., Commissioner for Settlement of Estates.

--

Read:- From the Collector of South Kanara, Ref.A2-32909/51(C), dated 30-4-1952.
-do- , L.Dis.16235/52(C), dated 22-7-52.

**

REFERENCE: 139m

Submitted to Government.

2. Abubaker, a clerk of the First Class Bench Court at Mangalore misappropriated a sum of Rs.1521-14-0. The misappropriation was due to the lack of control by the President and the Vice President and the neglect of duty by the Sub Divisional Magistrates. The misappropriation took place between 25-7-1949 and 10-11-1949, when two Sub Divisional Magistrates were in charge Janab S.Abdul Rahman was the Sub Divisional Magistrate at Mangalore from 29-11-1947 to 14-8-1949 and again from 24-10-1949 to 9-12-1949. In the intervening period Sri S.U.Parasurama Nayak was in charge of the division from 15-8-1949 to 25-10-1949. According to the instructions contained in G.O.No.2538, Law (General), dated 31-7-1933, the Sub Divisional Magistrates are required to inspect the fine and property registers of First Class Bench Courts once in three months and send reports to the District Magistrates. The reports are due to the District Magistrate's Office on the 10th of April, July, October and January of every year. Janab S.Abdul Rahman inspected the Court for the first two quarters; the inspection made on the last occasion being on 2-8-1949. Sri S.U.Parasurama Nayak did the inspection and detected the embezzlement on or about 15-12-49 when he was the Revenue Divisional Officer at Puttur holding additional charge of the Mangalore division. Thus, the First Class Bench Court was not inspected property according to the instructions issued in G.O.No.2538, Law (General), dated 31-7-33. In view of the gross neglect of duties and the amount misappropriate the Board initiated disciplinary proceedings against both Janab S.Abdul Rahman and Sri S.U.Parasurama Nayak, Their explanations are enclosed.

3. The Board presumes that the inspection of the Court should be made once in a quarter and not that each quarter's work should be inspected after the end of that quarter. Janab S. Abdul Rahman inspected the Court on 2-8-1949; and if he had done his duty, he should have detected the embezzlement on that date itself. His contention that his inspection was confined to the second quarter cannot be accepted. Again his notion of when the inspection of the III quarter should have been done is not correct; but following his own wrong notion which he had

had applied to the II quarter, the inspection for the III quarter was due by him in the beginning of October when he was on leave; and in view of the proper procedure at the inspection made on 2-8-1949, that it should be done upto the date of inspection the inspection would have been due only in the IV quarter The Board does not therefore accept the contention of Janab S. Abdul Rahman that his inspection on 2-8-49 was confined to the II quarter only, and considers that to this extent only, he was to blame. Janab S.Abdul Rahman was asked to show cause why his pay should not be reduced by one stage viz., from Rs.450/- to Rs.400/- The Board recommends that the pay of the Deputy Collector may be reduced accordingly

The Board has not accepted the contention of Janab S. Abdul Rahman that the inspection made by him on 2-8-49 was confined only to the II quarter. But if the same line of argument is followed Sri S.U.P.Nayak cannot be held to blame for failure to inspect for the III quarter, when he noticed that an inspection had been done on 2-8-1949, or he cannot be said to be wrong in presuming that that inspection was for the III quarter. The next inspection would be then due only for the IV quarter, he was in charge only until 24-10-49 when he was transferred and there was the rest of the quarter normally to do it (and he did it later on). The Board considers that Sri Parasumma Nayak's explanation may be accepted and recommends that he may be exonerated.

The Collector of South Kanara has reported that the periodicals for the quarters ended 31-3-1949 and 30-6-1949 are traceable neither in his office nor in the Sub Divisional Magistrate's Office. Presumably, the entries in the registers regarding the despatch of the periodicals are bogus. The Collector is requested to take disciplinary action against those responsible for the loss of inspection notes

Secretary.

To

The Secretary to Government, Revenue Department Madras (paras 1-5 -- with records).
The Secretary to Government, Home Departments (paras 1-5)
The Collector of South Kanara (para 5 only)

PVV.b.v.

Copy of Confdl.Ref.A2-32909/51(C), dated 30th April 1952 from Sri A.R.Rajaratnam, B.A., Collector of South Kanara to the Secretary, Board of Revenue, Madras.

Sub:- DEPUTY COLLECTORS - South Kanara - I Class Bench Court, Mangalore - Embezzlement of the amounts etc. by Clerk, Janab Abubaker - Disciplinary action against Abdul Rahman, Janab S. - Explanation - Sent.

Ref:- My Ref.C.10673/49-M, dated 12-12-1951.
Board's Confdl.Ref.No.D.13712/51-1(C), dated 10-12-51.
My Ref.A2-32909/51-1(C), dated 29-12-1951.
From Janab S.Abdul Rahman, Treasury Deputy Collector, Anantapur, Explanation dated 17-4-1952.

I enclose the memo of charge framed against Janab S. Abdul Rahman Saheb formerly Sub Divisional Magistrate, Mangalore and his explanation dated 17-4-1952.

2. According to the instructions contained in G.O.No.2538, Law (General) dated 31-7-1933, the Sub Divisional Magistrates are

p.t.o.

are required to inspect the fine and property registers of the I class Bench Courts once in three months and report the result to the District Magistrate. The receipt of these reports is watched by means of a periodical in my office. The quarterly report on the xxxiXX verification of the fine and property registers of the I Class Bench Court, Mangalore for the quarter ended 31-3-1949, 30-6-1949 and 30-9-1949 were due from the Sub Divisional Magistrate, Mangalore to the District Magistrate South Kanara on 10-4-1949, 10-7-1949 and 10-10-1949 respectively.

3. Janab S.Abdul Rahman explains that the periodical reports for the quarters ended 31-3-49 and 30-6-49 were despatched to the District Magistrate on 9-4-49 and 3-8-49 respectively. These periodicals are not traceable either in the Sub Divisional Magistrate's Court or in my Office. The entries in Cols.6 and 7 of the Periodical Register show that they have been received. In the absence of these periodicals I am not able to say whether the reports were actually sent to the District Magistrate or not and whether the entries in Columns 6 and 7 in the periodical register of the Sub Divisional Magistrate, Mangalore are genuine. It is seen from Pdl.697 of 1949 of the District Magistrate South Kanara for the quarter ended 31-3-49 that the report of the Sub Divisional Magistrate Mangalore which was due on 10-4-49 was not received in my office till 29-4-49. A D.O. reminder was issued to him on 30-7-49 and in reply to this D.O. the Sub Divisional Magistrate reported that he could not verify the properties and inspect the registers during the quarter ended 31-3-49. However, he reported that the registers relating to the properties, fine and cash were inspected on 2-8-49 and that he had submitted his report separately in his Pdl.268/49 dated 3-8-49. This report is also not traceable either in my office or in the office of the Sub Divisional Magistrate, Mangalore.

4. The report for the quarter ended 30-9-49 was due on 10-10-49. The embezzlement of the amount occured during the period from 25-7-49 to 10-11-49. Janab S.Abdul Rahman admits that he did not inspect the registers for the quarter ended 30-9-49. He was working as Sub Divisional Magistrate till 15-8-49 and was on leave from 16-8-49 to 24-10-49 when Sri S.U.P. Nayak acted in his place as Sub Divisional Magistrate. He explains that Sri S.U.P.Nayak is responsible for the inspection of the registers etc., for the quarter ended 30-9-49 and that the latter should have inspected them between 1-10-49 and 10-10. The instructions contained in the G.O.mentioned above do not require that the inspection should be done only after the close of the quarter and during the first 10 days of the succeeding quarter. Sri S.U.P.Nayak was no doubt working as Sub Divisional Magistrate during a part of the quarter i.e., from 16-8-49 to 30-9-49. He handed over charge to Janab S.Abdul Rahman on 25-10-49 and again took charge of the Division on 8-12-49. He took up the annual inspection of the court in December 1949 soon after he assumed charge of the division and detected the embezzlement. I cannot therefore say that Sri S.U.P.Nayak was negligent and that he facilitated the embezzlement in question He failed to inspect the registers between 16-8-49 and 30-9-49 and to that extent he was responsible for facilitating embezzlement. Janab S.Abdul Rahman who was working as Sub Divisional Magistrate from 1-1-49 to 15-8-49 and from 25-10-49 to 7-12-49 and who failed to inspect the registers, cash etc., during this period especially during the crucial period when the amounts were being embezzled has been negligent in this respect through the period and it is this which facilitated embezzlement.

5. The following registers and periodicals are enclosed for perusal and return.

(1) Periodical registers of the Sub Divisional Magistrate Court of Mangalore for 1949.

p.t.o.

(2) Periodical registers of the District Magistrate's Office (C3 and C4) for 1949.

(3) Running note file relating to the periodical registers for 1949 of the Sub Divisional Magistrate's Court, Mangalore.

(4) Periodicals 697/49 of the District Magistrate's Court for the quarters ended 31-3-49 and 30-9-49.

Copy of Confdl.L.Dis.16235/52, dated 22nd July 1952 from Sri A.R. Rajaratnam, B.A., Collector of South Kanara to the Secretary, Board of Revenue, Madras.

Sub:- Deputy Collectors - (South Kanara) - I Class Bench Court, Mangalore - Embezzlement of the amounts etc. by Janab Abubaker, Clerk - Disciplinary action against Parasurama Nayak, Sri S.U. - Explanation.

Ref:- Board's Ref.D.13712/51(C), dated 9-6-52.
My Ref.A2-16235/52-1(C), dated 19-6-1952.
From Sri S.U.P.Nayak, explanation dated 21-7-52.

Agreeably to the instructions issued in Board's Ref.D. 13712/51(C), dated 9-6-1952, I framed charges against Sri S.U.P. Nayak, now Rent Settlement Authority, Kanhangad, in my Ref.A2-16235/52-1(C), dated 19-6-52. A copy of the memo. of charge and the explanation dated 21-7-1952 of Sri S.U.P.Nayak are enclosed.

2. The charge against Sri S.U.P.Nayak is that he as Sub Divisional Magistrate, Mangalore failed to inspect the fine and property registers of the Bench Court, Mangalore between 16-8-49 and 24-10-49 and to that extent he was responsible for facilitating the embezzlement.

3. The explanation given by Sri S.U.P.Nayak for the charge is enclosed. He first took charge as Revenue Divisional Officer, from Janab S.Abdul Rahaman on 16-8-49 and continued in that post till 24-10-49. As stated by him the registers etc., of the Bench Court are said to have been inspected by his predecessor on 2-8-1949 and he believed that the inspection covered the period up to 2-8-49. He did not, therefore, inspect the Bench Court records soon after he joined duty or till the end of the quarter viz. till 30-9-49. As the inspection had to be done once in a quarter, he had to do it only after 2-11-49 i.e. 3 months after the previous inspection. He handed over charge on 24-10-49. It was on or about 15-12-1949 when he was working as Revenue Divisional Office, Puttur and holding additional charge of Mangalore division that he inspected the Court and detected the defalcation.

4. According to Janab S.Abdul Rahaman, the inspection on 2-8-49 related to the quarter ending 30-6-1949 and did not cover the period upto 2-8-49. The change in the personnel of the Revenue Divisional Officer, Mangalore at this period led to some confusion about the inspection of the Bench Court at Mangalore. The explanation of Sri S.U.P.Nayak shows that he cannot altogether be blamed for failure to inspect the Bench Court during the short period he was in charge of the division at that time. In these circumstances and in view of the fact that it was he who detected the defalcation and that when he was holding additional charge, I submit that the charge against him may be dropped.

(Sd) A.R.Rajaratnam.
Collector, South Kanara.

/True copy/

Secretary.

1.9.52

No. 168196 Cts II/52]

Home Dept

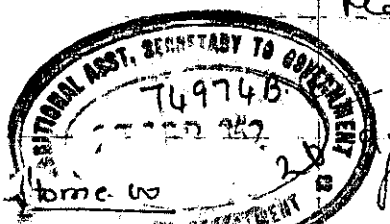
Please see the Reference from the Board of Revenue and its encls on pages 109-112 ante. This is only a copy of the orginal submitted to the Govt. in the Revenue Dept. who will no doubt take necessary action in the matter. No action is called for on this file in this Dept. ts/ Home 77663/52 file relating to the misappropriation in the First class Bench Court, Mangalore has been sent to Home Dept. on 5-9-52. This may be added to that file on its return. Meanwhile Revenue may see.

Submitted & added

21.9.1952

RW

[P.T.O]



21.9.52

22.9.52

11 G

To AS

Rev Dept

Please see note on p 113 ante 107-112

2. The Board's report on appeal ante which will be sent also bottom is dealt with in the top most file. This file may be returned to Home.

Rev Dept 1902/19 20/10

Home Dept

Please see the note of the Rev Dept above. The receipt of the file referred to above may be awaited till 30.10.52

Rev No 726281/1

16/10/52

(No. 3064 Cls II/50)

115

HOME DEPARTMENT

G.O. Rt No. 3013 dated 12.10.54

Courts - Criminal - South Kanara District - Embezzlement of public money - Irrecoverable amount - Write off - Ordered.

— x —

Read:-

From the Board of Revenue, T/C 9782/51-2 dated 16.10.1951.
From the High Court, R.O.C. No. 220/50-D1 dated 22.1.1952.

Order:-

The Government direct that the sum of Rs. 1,147-2-0 (Rupees one thousand one hundred and forty seven and annas two only) being the unrecoverable balanace of fine amount misappropriated by Sri Abubaker, ex-clerk of the first class Bench Court, Mangalore, South Kanara District be written off the accounts.

15.9.54

To

The Board of Revenue, Madras.
The Registrar, High Court, Madras.
The Collector, South Kanara.
The A.G. thro' the Finance Deptt.
1. S.C.

copy to

117

OFFICE OF THE
ACCOUNTANT GENERAL, MADRAS.

MADRAS, 9

No. TM/5N?/54- 7/380 *Dated*

MEMORANDUM

From

The Accountant General,
Madras.

To

The Secretary to Government of Madras,
Home Department,
Madras-9.

Sir,

Sub: Embezzlement-South Kanara - First Class Bench Court - Misappropriation of fine amount

Ref: Government memorandum No.47286 Cts.II/55-1 dated 11-5-1955.

- Secret AP.

I am to enclose for information and early remarks, if any, a copy of the draft paragraph proposed on the subject indicated above for inclusion in the Appropriation Accounts of the Government of Madras for 1953-54 II half and the Audit report thereon.

Yours faithfully,

(D. Ramachandra Rao)
Deputy Accountant General

Encls + one

ngp
268

119

DRAFT PARAGRAPH FOR INCLUSION IN THE AUDIT REPORT ON THE APPROPRIATION ACCOUNTS OF 1953-54 (II HALF).

--:o:--

During the annual departmental inspection of a 1st Class Bench Magistrate's Court in a district, in 1949, misappropriation of money amounting to Rs.1,567/- through forgery and falsification of accounts extending from July to November 1949, came to notice. The clerk of the Court who was considered responsible for the crime was prosecuted and sentenced to imprisonment for three months and to pay a fine of Rs.300 or in default to undergo further rigorous imprisonment. He was also dismissed from service.

The fine could not be realised but a sum of Rs.420/- seized from the clerk at the time of his arrest was adjusted towards the amount misappropriated and the balance of Rs.1,147/- was written off by Government. The Sub Divisional Magistrate of the Court, whose lack of supervision led to the misappropriation, could not be dealt with departmentally as he had been since transferred permanently to Mysore service. The Mysore Government was advised of the facts of the case and requested to take such further action as they desired, against the Sub Divisional Magistrate.

(Itd)A.K.
13-8
A.G.

/true copy/

MANAGER,
AG's Office.

KEY

Para based on:

1. G.O.Rt.No.3013 Home dt.12-10-54

2. Dt.Mag.Letter dt. 30-9-50 at p.7 of TM case 5N-2-1949-55

3. Govt.(Home Dept) Memo 47286 Cts.II 55-1, dt.11-5-55 at page 59 ibid

District: South Kanara 1st Class Bench Magistrate's Court Mangalore

Papers filed in : TM Case 5N-2 1949-55 and DA XV.22-6/1955-56

Para accepted by Government in

1st issue

Home dept

12

C.No.101231/55. Memo no. / dt.

Embezzlement - South Canara - first class Bench court - Misappropriation of fine amount

Ref: from the Accountant General, Madras, letter no TM/SN2/54-55/380 dated 27-8-55.

It is observed from the draft paragraph sent / forwarded with the letter cited that the amount of money misappropriated is Rs 1,567/-. It is however seen from the records with the Government that the total amount misappropriated in the first class Bench court is Rs 1521-14-0. The Accountant General, Madras is requested to reconcile the discrepancy.

To,
The Accountant General,
Madras.

Glh
6.9.55

DB
7/9/55

It is no use asking the A.G. to explain the discrepancy when we have all the papers in the case in our office with us. Please ~~fortune~~ write to indicate the correct position. I think that some further ~~ref~~ may be necessary.

~~The A.G. is informed that the total amount misappropriated~~ was Rs 1521/14/- (Rs 1522/- roundly) and not Rs 1567/- also that out of

Th
8.9.55

Rs 1201. seized from the clerk only a sum of 374-12-0 which he had collected and for which he was directly responsible was recovered.

17

Home (Cts.II)Department.

Memo.No.101231 Cts.II/55-1 dated 4.10.55

Embezzlement - South Kanara Dist. - First Class Bench Court - Misappropriation of fine amount.

Ref:(1) From the High Court, Roc.No.220/50-D1 dated 22-1-52.

(2) G.O.Rt.No.3013, Home, dated 12-10-1954.

The attention of the District Magistrate, South Kanara is invited to his letter No.10673/49-MHC dated 16-8-51, on the above subject, and he is requested to report very urgently through the High Court, Madras as to how the sum of Rs.420/- produced by the clerk Sri Abubaker at the time of his arrest was accounted for.

4/10/55

4.10.55

To the D.M., South Kanara.
Copy to the Registrar, High Court, Madras (with covering letter)
Copy to A.G., Madras w.r.to his letter No.T.M/5N2/54-55/380 dated 27-8-1955.

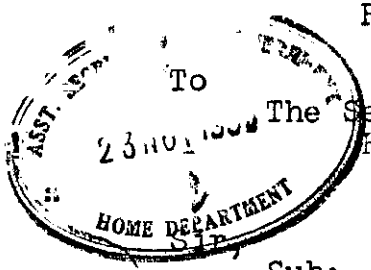
4/10/55

1225

R.O.C.No.6429/55.D.1. Dated: 18th November, 1955.

From

Sri S.K. Gajendram Nayudu, B.A.,B.L.,
Registrar, High Court,
M a d r a s.



To

The Secretary to Government,
Home Department, Fort St.George,
Madras (with enclosure).

Sub:- Embezzlement - South Kanara District - First Class Bench Court - Misappropriation of fine amount - Accounting of.

Ref:- Memorandum No.101231.Courts.II/55-1, dated 4-10-1955 from the Home Dept.

I am to forward Letter R.O.C.No.2583/55.A., dated 9-11-1955 from the District Magistrate, South Kanara on the subject cited.

Yours faithfully,

S.K. Gajendram Nayudu

Registrar. 22-11-55

MTG.

R.C.C.No. 2583/55.A.

From Sri. D. Noronha, B.A., B.L.,
District Magistrate,
South Kanara,
MANGALORE.

2229/D

To The Secretary to Government,
Home Department,
MADRAS

THROUGH

The Registrar,
High Court,
MADRAS.

dated: 9.11.1955.

Sir,

EMBEZZLEMENT: South Kanara District - First Class Bench Court - Misappropriation of fine amount - report submitted.

Ref: Memo No.10123/Courts.II/55-1.dated.4.10.55 from the Government, Home Department.

The sum of Rs.420/- produced by the ex-clerk, Sri. K. Abubaker, at the time of his arrest, was accounted for as follows:

(i) Credited to the Treasury with chalan No.968 dated.1.7.1952 towards the amounts of fine misappropriated by the ex-clerk.	Rs.126/-.
(ii) Credited to the Treasury with chalan No.105 dt.25.11.54 towards the amount of fine misappropriated by the ex-clerk.	12/-.
(iii) Credited to the Treasury with chalan No.106 dt.25.11.54 to the head 'Criminal Courts Deposits'	282/-
Total	Rs.420/-

The third item above was credited to Criminal Courts Deposits as there was no proof that the ex-clerk had misappropriated the other amounts of fine and value of properties (Rs.1147.2.0 in the aggregate), which were ordered to be written off the accounts in G.O.Rt.No.3013 dt.12.10.54.

Yours faithfully,

v.9.11. Dt.Magistrate.

9.11.55.

R.C.C.No.2583/55.A. Dated.21.11.1955.

From: Sri.D.Noronha, B.A., B.L.,
District Magistrate,
South Kanara, Mangalore.

To: The Secretary to Government, Home Department,
Fort St. George, Madras.

Sir,

EMBEZZLEMENT: South Kanara District - First Class Bench Court, Mangalore - embezzlement of fine amount - report submission of.

Ref: Govt. Memo No.10123/Courts/II-55-1.Home dated.4.10.1955 and 8.11.1955.

- - -

The report called for was submitted through the Registrar, High Court, with my letter Roc.No.2583/55.A. dated.9.11.55. A copy of the report is enclosed.

Yours faithfully,

v.22.11.

Dt.Magistrate.

R.O.C.No. 2583/55.A.

From Sri. D. Noronha, B.A., B.L.,
District Magistrate,
South Kanara,
MANGALORE.

To The Secretary to Government,
Home Department,
MADRAS

THROUGH

The Registrar,
High Court,
MADRAS.

dated: 9.11.1955.

Sir,

EMBEZZLEMENT: South Kanara District - First Class Bench Court - Misappropriation of fine appunt - report submitted.

Ref: Memo No.10123/Courts.II/55-1.dated.4.10.55 from the Government, Home Department.

The sum of Rs.420/- produced by the ex-clerk, Sri. K. Abubaker, at the time of his arrest was accounted for as follows:

(i) Credited to the Treasury with chalan No.968 dated.1.7.1952 towards the amounts of fine misappropriated by the ex-clerk.	Rs.126/-.
(ii) Credited to the Treasury with chalan No.105 dt.25.11.54 towards the amount of fine misappropriated by the ex-clerk.	12/-.
(iii) Credited to the Treasury with chalar No.106 dt.25.11.54 to the head 'Criminal Courts Deposits'.	282/-
Total	Rs.420/-

The third item above was credited to Criminal Courts Deposits as there was no proof that the ex-clerk has misappropriated the other amounts of fine and value of properties Rs.1147.2.0 in the aggregate, which were ordered to be written off the accounts in G.O.Rt.No.3013 dt.12.10.54.

Yours faithfully,

(Sd: D. Noronha.

v.9.11. Dt.Magistrate.

(True Copy)

Dt. Magistrate

Home (Cts.II)Dept.

Memo.No. 101231 dt 11/51-F dated 18-1-58

EMBEZZLEMENT - South Kanara Dist. First Class Bench Court Misappropriation of fine amount.

Ref: From the D.M. South Kanara ROC.No. 2583/55-A dated 21-11-1955.

From the particulars furnished by the D.M. in his letter cited, it is seen that only Rs.138/- (Rs.126 + 12) out of the sum of Rs.420/- seized from the clerk Sri Abubacker was credited towards the fine amount of Rs.374-12-0 misappropriated by him and the balance of Rs.282/- (Rs.420- 138) has been credited to the treasury on 25-11-54 to the head "Criminal Court Deposits" A sum of Rs.236-12-0 still remains to be recovered from him as per details below:

Total amount misappropriated	Rs.1,521-14-0
Amount written off	Rs.1,147- 2-0
Amount to be recovered from the Clerk	Rs. 374-12-0
Amount recovered	Rs. 138- 0-0
Amount still due	Rs. 236-12-0

Seized from the Clerk Rs.420- 0- 0

Credited to Government so far Rs.138- 0- 0

Balance kept under Crl.Court Deposits 282- 0-0

2 Under the rules 271(4) (ii)(d) read with 271(1) of the Financial Code, Volume I, the balance of Rs.282/- kept under criminal courts deposit has not lapsed since three years have not yet passed from 21-11-54. The sum of Rs.236-12-0 has to be adjusted from this amount. The D.M. South Kanara is requested to credit the sum of Rs.236-12-0 yet due to Government

P.T.O.

1384

towards the amount of the misappropriated ~~time~~ by the ex-clerk Sri Abubaker from the amount of Rs.282/- kept under "Criminal Courts Deposits". The balance of Rs.45-4-0 may continue to be kept in deposit till ~~claim is preferred by the ex-clerk and his right to the refund is established~~ the party makes a claim for it, when his rights to the refund may be examined or till the expiry of the period prescribed in the rules whichever is earlier.

B on p 15 cf

A on p 6 n6

232-0-0
236-
45-4-

16.1.56.

To the D.M. South Kanara.
Copy to the Registrar, High Court, w.r.to his letter ROC.No.6429/55-D1 dated 18-11-55 (with 1 c.l)
Copy to the A.G., Madras w.r.to his letter No.TM/5N2/54-55/380 dated 27-8-55.

p 1 cf

Despatched by

Date

Roc.No.056/56B Mangalore, dt.23.2.56

From: Sri D. Coronha, B.A., I.P.,
District Magistrate,
South Kanara.

The Secretary to Government,
Home Department, Madras.

Dis. 1987/56

Sir,

DL-CSITS. Criminal court - T.D.No.114 - Amount of Rs.282/- credit of Rs.236.12.0 as magisterial fines - report submitted.

Ref: Govt. memorandum No.101231 Cts.II/55-4. dt.18.1.56 and reminder dt.18.2.56.

///

I have issued a voucher to the Sub Treasury Officer, Mangalore, for the transfer of Rs.236.12.0 as magisterial fines under XXI Admn. of Justice, from out of the amount of Rs.282/- in 'Criminal Court Deposits', under T.D.No.114 dt.25.11.54. On receipt of the Sub Treasury Officer's reply, a further report will be submitted.

Yours faithfully,

Dt.Magistrate.
24.2.56.

Home (Cts II) Dept.
Rc.No.D.20/3/56.

CRB. 101231/ch II/55

T.P. No. 12,71,311—4-11-49

DISTRICT MAGISTRATE, S.K. MANGALORE

REMINDER. II

31 MAR 1956

Home ... Department

ch II ... Branch

To The District Magistrate South Kanara

~~has the honour to invite~~ am directed to invite attention to your letter

Roc. No. 686/56-B, dated 23.2.56 [illegible] -

~~to request that the reply to it may be expedited~~

request that this reminder may be returned at once with information as to—

(1) the stage at which the matter now is, and

(2) the date by which final reply may be expected.

~~and~~

~~(3) the circumstances which have caused the delay~~

To the Home Dept Station Madras. Dated 27.3.56

D'Souza
Signature
For Assistant Secretary
Designation
27.3.56

SUBJECT.

Embezzlement - South Kanara Dist First Class Bench Court at Mangalore - Misappropriation of the amount

P.T.O.

W/Roc No 686/55 B

Home(Pol.II) Dept. REPLY.

Subd. Dt. 18-4-56

To
The Secretary to Government
Home Dept
Fort St. George
Madras

Sir

The reply from the Sub Treasury Officer, Mangalore has not been received. He has been reminded thrice daily. Immediately on receipt of his reply a final report will be submitted.

Yours faithfully,

31.3.56

Magistrate
Sd/- Illegible

Home Dept.

[Page 22 ante] · Subd. for perusal

Next R.D 1.5.56.

RB
3/4/56

Ans
Encl

15

From

The Accountant General,

Madras.

To

The Assistant Secretary to the Government of Madras
Home Department,
Madras.9.

No. AA.No.60-3/Spl/55-56/5 Station. Date. 3-4-1956.

Sir,

Sub: Draft paragraph for inclusion in the Appropriation Accounts for 1954-55 and the Audit Report thereon.

--

A reference is invited to the correspondence ending with the Government of Madras, Home Department Memorandum No.101231 Cts/II/55-4 dated 18th January 1956 regarding the embezzlement in the first class Bench Magistrate's Court, Mangalore.

2. It is seen from the letter R.O.C.No.686/56-B dated 5th March 1956 of the District Magistrate, Mangalore addressed to this office (copy enclosed for reference) that the total amount misappropriated in this case was Rs.1,533-14-0 or Rs.1,534 and not Rs.1,521-14-0 or Rs.1,522 as stated in the Government Memorandum cited above.

3. In the circumstances, the orders of write off in G.O.Rt.No.3013 dated 12th ~~March~~ October 1954 appears to require revision; otherwise paragraph 2 of the Government Memorandum dated 18th January 1956 referred to above will have to be modified.

4. It is requested that an early reply clarifying the position may please be sent so that any modification found necessary to the draft paragraph sent with this office letter No.T.M/SN2/54-55/380 dated 27-8-1955 may be carried out. Government's remarks on the draft paragraph may also please be communicated very early for finalising the draft.

Yours faithfully,

For Assistant Accounts Officer

Fold along this line.

Fold along this line.

MFP—880 General—6923-50-A—(C-932)—15-6-55—100,000 Pads.

141

Copy of letter No.R.O.C.686/56-B dated 5-3-56 from the District Magistrate, South Kanara, Mangalore to the Accountant General, Madras.

--

Embezzlement - South Kanara District - Firstt Class Bench Court, Mangalore - Abbubaker Sri U. Exclerk - Misappropriation of fine amount - Details furnishing of.

Ref: Your letter No.AA.60-3/Spl-55-56/676 dated 22-2-1956.

--

A perusal of the previous records shows that the amount of Rs.12/- due in C.C.1741/49 was not included in the total amount of Rs.1521-14-0 misappropriated by the Clerk or the misappropriation of this item of Rs.12 came to light when the accused produced a M.O. receipt for having remitted the amount to the court, when a warrant was issued against the accused for the collection of the amount. The total amount defalcated therefore comes to Rs.1533-14-0.

--

//True copy//

S. Krishnamurthy
Superintendent

4/4/56

(CRO.101231/dis.II/55)

Urgent

143

Home (Cts.II)Dept.

Memo.No. 101231 ekII/55-5 dated 26 te-56

EMBEZZLEMENT - South Kanara Dist. - First Class Bench Court, Mangalore - Abubacker, Sri U. Ex-clerk - Misappropriation of fine amount.

REF:From the A.G., Madras AA.No.60-3/Spl/5 56/5 dated 3-4-1956.

The attention of the D.M., South Kanara is invited to his letter No.ROC. 686/56-B dated 5-3-56 addressed to the A.G., Madras and he is informed that it is not clear how the total amount of misappropriated will go up by Rs.12/- if the clerk has produced the M.O. receipt and has accounted for the amount. He is requested to clarify the position and to state urgently whether the amount of Rs.12/- referred to therein was already included in the amount recovered from the clerk and credited to Government and if not whether this amount should also not be recovered and credited to Govt. from the amount deposited by the Clerk. A copy of Lr.AA.No.60-3/Spl/55-56/5 dt 3.4.56 received from the A.G.Madras in this connection, is also enclosed.

2. The D.M. is requested to expedite the final report promised in his Lr.ROC.No. 86/56B dated 23-2-1956.

23/4/56
23/4/56

To the D.M. South Kanara.
Copy to the Accountant General, Madras.
[R.D. 20.5.56]

21.5

D.Dis.No.686/56. Mangalore, dated.22.5.1956.

From Sri D. Noronha, B.A., B.L.,
Dt. Magistrate, S. Kanara.

To The Secretary to Government,
Home Department,
Fort St.George, Madras.

Sir,

EMBEZZLEMENT: South Kanara District - First Class Bench Court, Mangalore - Abbubaker Sri U. ex-clerk - adjustment of the amount in deposit-report submitted.

Ref:Government, Home Department Memorandum No.101231 Cts.II/55-4 dt.18.1.56 and 28.4.56.

2. This office Roc.No.686/56.B. dt.23.2.56.

- - -

The Sub Treasury Officer, Mangalore, intimates that the amount of Rs.236.12.0, from out of the amount of Rs.282/- in criminal court deposits in T.D.No.114 dt.25.11.54, has been adjusted to XXI Administration of Justice - Government Fines, as per Voucher No.2 dt.13.3.56 and included in the Sub Treasury Account for March, 1956.

2. As regards Govt.Memo of even number dated 28.4.56, I have to state, that after the submission of the final report to the Government in Collector's and then Dt.Magistrate's Ref.c.No.10673/49 MHC. dt.16.8.51, a sum of Rs.12/-, being the fine in BC.No.1741/49 on the file of the First Class Bench Court, Mangalore, was found to have been misappropriated by the ex-clerk Sri U. Abbubacker. This misappropriation came to light when the accused in BC. No.1741/49 produced the M.O.receipt for having remitted the fine amount to the court. It may be pointed out that the term 'accused' in my report Roc.No.686/56B dt.5.3.56 to the Accountant General denotes the accused in BC. No.1741/59 and not the accused ex-clerk Abbubacker of the Bench Court. This amount of Rs.12/- has already been adjusted from out of the amount of Rs.420/- seized from the clerk at the time of his arrest as reported in para 1(ii) of my Roc.No.2583/55A dt.9.11.55 in reply to Government Memo No.101231.Courts.II/55-1. dt.4.10.55.

Yours faithfully,

Dt.Magistrate.
23.5.56.

v.23.5.

Dis.No.5108/56

CRo.101231 ch II/55.

pl. draw in secti.

13/6/56.

p25 cf -

p 31 cf

p115 cf 9(H

pp 17-18 cf.

para 2, p 9 mf -

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HOME DEPARTMENT

Memo.No. 101231 ch II/55-7 dated 13.6.57

EMBEZZLEMENT - South Kanara District - First Class Bench Court, Mangalore - Abubacker Sri U. Ex-clerk - Misappropriation of fine amount.

From the A.G., Madras AA.No.40-3/Spl/55-56/5 dated 3-4-56.
From the Dt. Magistrate, South Kanara D.Dis. No.686/56 dated 22-5-1956.

The A.G., Madras is informed that in the circumstances stated by the Dt. Magistrate, South Kanara in para 2 of his letter cited, a copy of which is enclosed, neither the orders of write off in G.O.Rt.No.3013, Home, dated 12-10-1954 nor paragraph 2 of the Government Memo.No.101231/ Cts.II/55-4, Home, dated 18-1-56 require revision. The A.G. is requested to amend the draft paragraphs intended for inclusion in the Audit Report on the appropriation Accounts of 1953-54 (II half) suitably with reference to the particulars furnished in para 1 of the Govt. Memo. referred to above.

13.5.56

31/5/56

1 June 56

To
The A.G., Madras. (with a copy of p.31 c.f.)

F

CENTRAL DE PAT

Despatched

15/6

149

OFFICE OF THE
ACCOUNTANT GENERAL, MADRAS.

MADRAS,

No.AA-60-3/~~Spl~~/55-56/ 9 (XII)

Dated 4-7-1956.

FROM

THE ACCOUNTANT GENERAL,
MADRAS.

76564
5/7/56

TO

The Secretary to the Government of Madras
Home Department,
Madras.

SIR,

Subject Embezzlement - South Kanara District - First Class Bench Court - Mangalore - Abubacker Sri U - Ex-clerk, Misappropriation of fine amount.

Ref: Government Memorandum No.101231-Courts-II/55-7 dated 13-6-1956.

With reference to the Government Memorandum cited above, I am to state as follows:

2. In letter No.Roc.No.2583/55A dated 9-11-55 of the District Magistrate, Mangalore, it is stated that a sum of Rs.12/- being the fine amount in CC.1741/49 has since been found to have been misappropriated by the ex-clerk and that this amount was credited to the treasury in Chalan No.105 dated 25-11-54 from out of the balance amount in the sum of Rs.420 seized from the ex-clerk. On a reference to the District Magistrate whether the total amount of Rs.1,521-14-0 said to have been misappropriated by the ex-clerk should be revised as Rs.1,533-14-0 in view of the subsequent discovery of the defalcation to the extent of Rs.12/-, it was stated by the District Magistrate that the total amount defalcated should be Rs.1,533-14-0 as the item of Rs.12/- came to light only when the accused (not the clerk but the accused in BC.No.1741/49) produced M.O. receipt for having remitted the amount to the court Vide his letter No.R.O.C.No.686/56-B dated 5-3-56 copy enclosed to this office reference No.AA-60-3/Spl/55-56/5 dated 4-4-56. In the circumstances, it would appear that the total amount defalcated has to be corrected as Rs.1,533-14-0. In accordance

p.t.o.

150

-2-

with the facts in Government Memorandum No.101231-Cts.II/55-4 dated 18-1-56 and the Memo. dated 13th June 1956, and in the light of the observations above, the following would appear to be the position.

Total amount misappropriated	1,533-14-0
Amount written off	1,147--2-0
Amount to be recovered	386-12-0
Amount recovered	374-12-0
Balance to be recovered from the clerk.	12--0-0

3. The amount of Rs.12/- may be adjusted from the balance of Rs.45-4-0 kept in deposit, if details are available.

4. In view of the position explained above, the draft paragraph is revised. A revised paragraph is enclosed for information

Yours faithfully,

FOR ACCOUNTANT GENERAL.

A.A.D. 15A

Draft Paragraph for inclusion in the Audit Report on the Appropriation Accounts of 1954-55 ~~(II-half)~~.

During the annual departmental inspection of a First Class Bench Magistrate's Court in a district, in 1949, misappropriation of money amounting to Rs.1,534 through forgery and falsification of accounts extending from July to November 1949, came to notice. The clerk of the Court who was considered responsible for the crime was prosecuted and sentenced to imprisonment for three months and to pay a fine of Rs.300 or in default to undergo further rigorous imprisonment. He was also dismissed from servic

The fine could not be realised but out of a sum of Rs.420 seized from the clerk at the time of his arrest a sum of Rs.375 was adjusted towards the amount misappropriated and a sum of Rs.12 is proposed to be adjusted. The balance of Rs.1,147 was written off by Government. The Sub-Divisional Magistrate of the Court, whose lack of supervision led to the misappropriation, could not be dealt with departmentally as he had since been transferred permanently to Mysore service. The Mysore Government was advised of the facts of the case and requested to take such further action as they desired, against the ~~Sub-Divisional Magistrate~~. official

KEY

Paragraph based on:
1. G.O.Rt.No.3013 Home dated 12-10-54.
2. District Magistrate letter dt.30-9-50.
3. Govt. (Home Dept) Memo No.47286 Cts.II 55-1 dt.11-5-55.

District: South Kanara - First Class Bench Magistrate's Court, Mangalore.

S Krishnamurthy

SUPERINTENDENT.

3/7

c No. 76564 cbsII/56

Home (cbsII) Dept

Memo No 76564 cbsII/56-2 Dt: 27.8.56

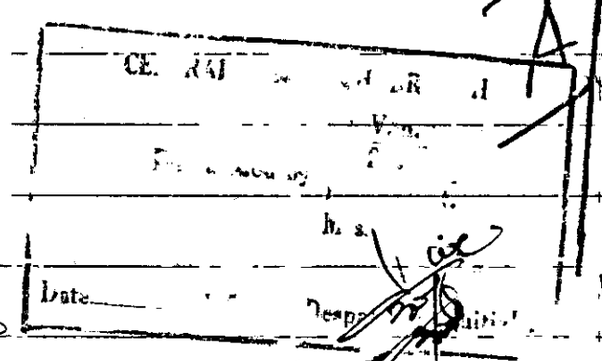
Embezzlement – South Kanara Dist. – First class Bench court – Misappropriation of fine amount

10³/278

pp 133-L4. for H.H. Ref:– Govt Memo No: 101231 cbsII/55 = 4 Dt 18-1-56

A copy of letter No. AA 60/3/XII/55-56 Dt. 4.7.56 from the A.G, Madras on the above subject is forwarded to the D.M (Jud) South Kanara and he is requested to take action to ~~Recover~~ obtain a further sum of Rs 12/- from the balance of Rs 45-4-0 kept under "Criminal Courts Deposits" and to report the facts to the Govt in due course.

Cp A on page



To

The D.M. (Jud)

South Kanara

(with a page of ppgs).

24/8/56

25/8/56

Copy to the A.G. Madras.

[C.B. 20.10.56]

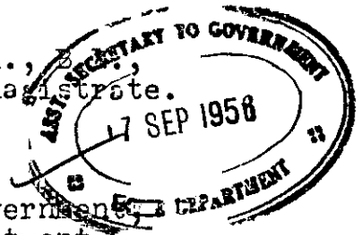
(C.B Item 30.)

D.Dis.5621/56.

DISTRICT MAGISTRATE'S COURT,
S.K., Mangalore, D:14-9-1956.

From

Sri. D. Noronha, B.A., B.L.,
District Magistrate.



To

The Secretary to Government,
Home Department,
Fort St. George,
MADRAS.

107091
17/9

Sir,

Sub:- DEPOSITS - Criminal Courts - Sub-Treasury Mangalore - Amount of Rs.12/- - Transfer to magisterial fines - Proposals - complied with -

---

Ref:- (1) Home Department Memorandum No. 76564 Gen-II-56-2 dated 28-8-1956.
(2) This office ROC.No.5621/56-B dated 4-9-1956 to the Sub-Treasury Officer, Mangalore.
(3) Mangalore Sub-Treasury Officer's Lr.No.1 dated 12-9-1956.

Agreeably to the Government Orders cited, a further sum of Rs.12/- from the balance of Rs.45-4-0 under Criminal Court deposits in T.D.No.114, has been credited as magisterial fines under XXI Administration of Justice, under Voucher No.1/12-9-1956 of the Mangalore Sub-Treasury.

Yours faithfully,

DISTRICT MAGISTRATE.

16.9.56

Copy to the Accountant-General Madras, in continuation of this Office R.O.C.No.5621/56 dated 4-9-1956.

KR/15.9

Home (ch II) Dept.

With reference to A on p 153 cf of (H), the D.M. South Kanara has reported that a further sum of Rs 12/- has been credited to Govt. No further action is called for in this ~~file~~. May be added to the G.O at (H)

23/9/56

24/9/56

Home Department.

Embezzlement - South Kanara Dt. - First Class Bench Court, Mangalore - Fine Accounts - Forgery and criminal misappropriation.

From the D.M., South Kanara, Ref.C.No. 10673/49-MHC, d/4.1.50, 27.2.50, 20.4.50, 30.6.50, 18.8.50 and 30.9.50.
From the High Court, Madras, Roc. No. 220/50-D1 d/4.12.50.
From the D.M., South Kanara, Ref.M.H.C.10673/49, d/16.4.51, 19.6.51, 2.7.51 and 3.8.51.
From the Bd. of Rev., B.P.Rt. 5438, d/11.8.51.
From the D.M., S. Kanara, Ref. 10673/49 MHC, d/16.8.51 and 12.11.51.
From the Bd. of Rev., Ref.7/C.9782/51-2, d/16.10.51 and 26.12.51.
From the High Court, Roc.No. 220/50,D1, d/22.1.52.
From the D.M., S. Kanara, Ref.No. 10673/49-MHC/27, d/17.11.51.
From the High Court, Roc.No. 220/50-D1, d/22.2.52.

This case relates to the misappropriation of fine amounts in the First Class Bench Court, Mangalore (South Kanara Dt.) by Janab Abubaker, clerk of that court during the period June 1949 to December 1949 when he was working as Head clerk of the Bench Court.

2. The misappropriation was discovered by the S.D.M., Mangalore in the course of the inspection of the records relating to the fines of the First Class Bench Court, Mangalore. Under instructions from the D.M., the S.D.M. gave a complaint to the police and the concerned clerk, Janab Abubaker was also entrusted to the custody of the police. A sum of Rs.420/- being part of the amount misappropriated by him was produced by the clerk before the police at the time of his arrest. As various items of forgery and falsification of accounts had been practised for a considerable length of time, the investigation involved examination of about 700 witnesses and the D.S.P. pleaded inability to investigate the matter and find out the exact amount of misappropriation as it was obviously impossible for the police to investigate each case of

misappropriation since no proper record of money received in court was being maintained, the clerk having discontinued the practice of issuing receipts for the fines paid by accused and also ceased to maintain the cash book. The clerk was charged before the S.D.M., Puttur for Criminal breach of trust in respect of three items involving a sum of Rs.60. The magistrate found the clerk guilty and sentenced him to undergo R.I. for 3 months and to pay a fine of Rs.300 in default to suffer further R.I. for 2 months on each of the three charges. The sentence of imprisonment was ordered to run concurrently. The total fine payable was Rs.900. The clerk did not pay the fine and suffered the default sentence. In the course of the judgment the S.D.M., Puttur observed that the misappropriation was occasioned by the callous negligence of duty by the President of the court who had not even seen to the maintenance of the cash register or to the proper issue of receipts for months together.

3. As a result of further scrutiny of the records and registers relating to the criminal case properties of the Bench Court the D.M. has stated that the total loss involved in the misappropriation committed by the ex-clerk comes to Rs.1,521-14-0.

The First class Bench Court at Mangalore is presided over by an Hony. President and Vice President in two batches. The President holds his court 3 days in a week and the Vice President once a week. The D.M. has stated that although according to the instructions contained in rule 316 of the Criminal Rules of Practice the presiding Magistrates are responsible for the money received in court, and clerks are prohibited from receiving cash, in

practice the Bench clerks of the Bench Court Mangalore were in temporary custody of the cash till it was credited to the treasury on the next workin day and that the amounts collected were handed over to the Head clerk at the close of the court work for the day and fines paid by accused out of court hours were being received directly by the Head clerk, and receipts passed by the President or Vice President as soon as they attended the court.

On going through the various items of misappropriation it was found that the following amounts had to be recovered from each of the three persons mentioned below, for which they were responsible:-

(1) Sri S. Shankara Alva (B.Sc.) (Edin) President	Rs.738	12	9
(2) Sri M. Venkatesh Pai Vice-President	Rs.408	5	3
(3) Janab Abubaker, ex-headclerk	Rs.374	12	0

The S.D.M., Mangalore directed the President and the Vice President to make good the loss caused on account of their negligence but they have not complied with the request. It is stated that the President replied that the amounts of fines etc. were handed immediately to the clerk of the Bench Court and no further responsibility rested with the President and that there were no definite orders of Govt. making the President and the Vice President responsible for money collected in the court. The President also represented that the misappropriation was first detected by him on 15.12.49 and not by the S.D.M. The D.M. has ~~also~~ stated that the President and Vice President are responsible for the money until it is credited into the treasury and that the President had himself deposed in the criminal case against the clerk that it was only

when the S.D.M. inspected the registers that he (the President) came to know that the fine register had been tampered with by the accused and that the fine collected had not been remitted to the treasury in full. The D.M considers that there can be no doubt that it was a lamentable lack of supervision by the President and the Vice President that led to the misappropriation.

4. As regards the clerk, a sum of Rs.374-12-0 is to be recovered from him. A sum of Rs.420/- being part of the amount misappropriated by him had already been produced by him which is now in the court of the S.D.M., Mangalore. The sum due may be recovered from this amount When this is done, the amount yet to be collected will be Rs.1147-2-0 from the President and the Vice-President.

As regards action taken against the persons responsible, the D.M. has reported that immediately after his arrest, the clerk was placed under suspension and his services terminated. On his release from jail, the clerk left for Bombay and his present whereabouts are not known. The D.M. considers that no public purpose would be served by launching fresh prosecutions against the clerk for each and every item of misappropriation and recommends that he may be debarred from holding any appointment under the Govt. in future. The Bd. supports the Co-llr.'s recommendation. The details regarding the ex-clerk's parentage, caste, residence etc are given in the copy of the judgment of the S.D.M., Puttur - cf. p.38 c.f. The Board's recommendation may be accepted by the Govt. and necessary notification may be issued debarring the ex-clerk from Govt. service. Action in this regard will have to be taken in

Public (Ser.) who may be requested to take relevant extracts from this file.

5. With reference to the steps for recovering the money due to the Govt. from the President and the Vice President the D.M. has stated that there is no reason to believe that they were in conspiracy with th clerk, that there were no grounds therefore to launch criminal prosecutions against them and that the questi for consideration is whether they should be directed to make good the loss to Govt. and whether in the event of th refusal, a suit should be filed against them. The S.D.M., Mangalore who consulted the local Govt. Pleader has reported that the latter is of opinion tha recovery can be effected by resorting to a Civil Court. The D.M. however says that in view of the fac that the work is done by these gentlemen as honorary workers and they relieve the Stipendiary Magistrates o a lot of work it is for consideration whether any action for recovery of the amount should be taken against them and whether the amount cannot be ordered to be written off. The Bd. informed the Collr. that administrative control over Hony. Magistrates did not vest in the Board and that the question whether any action is necessary against the President and the Vice President for recovering from them the amount embezzled by the ex-clerk should be addressed to the Govt. through the High Court for decision.

The Board did not agree with the report of the Collr. that the embezzlement was not facilitated on account of the negligence of any subordinate under the control of the Revenue Dept. It invited the attention of the Collr. to G.O. No. 2538, Law Genl., d/31.7.33 which enjoins that the fine and property registers of First Class Bench Courts should be inspected by the S.D.Ms. every 3 months and a report

of such inspection submitted to the D.M. In this case, the Board observed that the embezzlement was going on for a period of 6 months from July 1949 to December 1949 and that if the prescribed quarterly inspection of the fines and property registers by the S.D.M. had been regularly done, there would not have occurred misappropriation of such large amounts. On a further report from the D.M. on this point the Board passed orders directing that charges should be framed against Janab S. Abdul Rahman, the S.D.M. during the period in question, why he should not be reduced in time scale of pay by one stage. In forwarding the final report of the D.M., South Kanara in the matter, the Hon'ble the Judges were of the opinion that lack of supervision on the part of the then President and Vice President of the Bench Court and negligence on the part of the then S.D.M. in not having inspected the fines register as required under G.O. No. 2538, ___ Genl., d/31.7.33 had led to the misappropriation. The High Court also stated that the Bd. had intimated that disciplinary action was being initiated against the S.D.M.

The High Court has not offered any specific remarks on the question whether further action should be taken against the President and Vice-President for recovering the amounts due from them.

The Govt. have already emphasised in G.O.3443, Law Genl., d/19.9.32 that it is objectionable that bench clerks should have anything to do with cash collections in the courts and that Presidents of Bench Courts must continue to be responsible for the collection and safe custody of fines levied by their courts. As observed by the High Court the President and the Vice-President cannot be absolved

of their responsibility in the matter. Sri M. Venkatesh Pal, Vice-President of the Bench Court during the period in question had since expired towards the end of December 1951, and another person has been appointed as the Vice President of the Court. Sri Shankar Alva, the President applied for leave for a period of 3 months on grounds of ill-health which was granted by the D.M. and since it was not definite that he would rejoin after expiry of the leave, the D.M. recommended the appointment of one Sri C.V. Attavar, ~~the~~ existing member of the court as President. Sri Attavar was accordingly invested with first class powers in G.O. 2335, Home, d/23.8.51 and is now functioning as the President. In view of the fact that the Vice President has since expired and also in the circumstances stated at 'X' on p. 5 ante, it is for consideration whether the amount of Rs.1147-2-0 may be written off as recommended by the D.M.

6 The Board will no doubt send a further report to Govt. on the action taken against the S.D.M. which may be awaited.

7 The case may be sent to Pub. (Ser.), Revenue and Finance Depts. for remarks.

27.5.1952

J.S.

We may consult Legal for advice whether a suit can be filed against the then president & the 2 Rs 1 the then vice president for the Rs 1147-2-0 which remains the main fund.

27-5-52

Legal ( )

Extracts taken

ASSISTANT SECRETARY 8395 27 MAY 1952 LEGAL DEPARTMENT

3064 c&s II/50-6
28/5/52

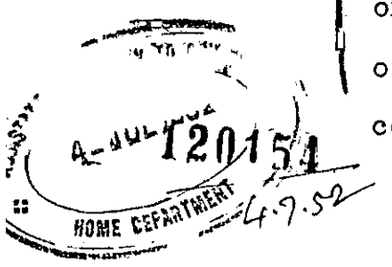
Legal (Opinions) Department.

No suit can be filed against the legal representatives of the former Vice-President for negligence on the part of the latter. The question of recovery has therefore to be considered only in respect of such amount of the loss as could be attributed to the President alone.

2. The ground for filing a suit against the President is that the misappropriation in this case would not have taken place but for the slackness and negligence on the part of the President (and the Vice-President) "who appear to have entirely disregarded the instructions in rule 316 of the Criminal Rules of Practice, and left the cash and accounts with the clerk". But according to the District Magistrate, South Kanara, "the misappropriation seems to have been facilitated by the practice which existed in the Bench Court, to permit the Head Clerk of the Court to keep the fine and cash in his custody, pending remittance to the Sub-Treasury, Mangalore, ...although it is against the instructions in Rule 316. Criminal Rules of Practice. This practice was permitted by a previous District Magistrate in 1935 "it being understood that the President and Vice-President were responsible for the fine money until it had been credited into the Treasury" It is not clear whether it could be proved that the President (and the Vice-President) were aware of these instructions. This is a question of fact which may be got verified. The President when called upon to make good the loss had replied that the amounts of fines etc were handed immediately to the clerk of the Bench Court that no further responsibility rested with the President and that there were also no definite orders from the Government making the President and the Vice-President responsible for the money collected in Court The District Magistrate, South Kanara, has remarked with reference to this that no specific order of the Government is necessary and that the Honorary Magistrates of the Bench Courts have not been exempted from the provisions of Rule 316, Criminal

Rules of Practice and Circular Orders and that it was made clear to a previous President in 1935 that the President and Vice-President would be responsible for the money until it had been credited into the Treasury. That a previous President was informed is not sufficient to fasten liability on the President in question, unless knowledge on his part of the previous proceedings of the District Magistrate could be proved. The latter will be liable only if

C



3.7

Legal U.O. No. 8375/52-1
3.7.52.

Home Department.

With reference to Joint Secy.'s note on p.7 ante, the Legal Dept. have stated that no suit can be filed against the legal representatives of the former Vice-President, M. Venkatesh Pai (who had expired by the end of December 1951) for negligence on the part of the latter.

As regards the question of recovery of such amount of loss as could be attributed to the President alone, they have stated that the ground for filing a suit against the President is that the misappropriation in this case would not have taken place but for the slackness and negligence on the part of the President (and the Vice President) ~~and that since~~ the District Magistrate has reported that the misappropriation seem to have been facilitated by the practice which existed in the Bench Court and which had been permitted by a previous District Magistrate in 1935, viz., to permit the Head clerk of the court to keep the fine and cash in his custody pending remittance to the Sub Treasury, Mangalore although it is against the instruction in rule 316, Criminal Rules of Practice, it being understoc that the President and Vice President were responsible for the fine money until it had been credited into the Treasury. Legal consider that a previous President

A

was informed of 'A' on p.9 above is not sufficient to fasten liability on the President in question and that the latter is liable only if knowledge on his part of the previous proceedings of the District Magistrate can be proved and have suggested that it may be got verified ~~from the D.M.~~ whether it could be proved that the President in question was aware of the instructions at 'A' on p.9 above. This may therefore be ascertained from the D.M. A draft memo. is submitted for approval.

After issue, the file may be sent to the Public (Ser.) Dept. for taking extracts with reference to 'A' on pp.4-5 ante.

14.7.1952

J.S. Verma 14/7/52

4.7.52

14.7.52

pub (Ser) — ac' — (done)

Home no 30b4 ckII /50

Pub (Ser) Deptt

[The file has been sent to this deptt. w.r.t. para 4 of the Home Deptt. notes on pp 4-5 ante. The particulars of the ex-clerk furnished at p. 38 cf are not sufficient for the purpose of the debarment notification. Home Deptt may be requested to obtain ~~such~~ the particulars regarding the residential address, the date of birth and the marks of identification of the ex-clerk and

A

ASSISTANT SECRETARY TO GOVERNMENT 3959 30 JUL 1952 PUBLIC DEPARTMENT

send the file to this dept. in due course for taking necessary extracts for the issue of a notification

Box 13107

16.7.52

17.7.52

Home Dept

Pub (Ser — B)

3059/52-I

Please see the note of the Pub(Ser) Deptt on pp 10-11 above. The Dist. of South Kanara Superintendent reported in his letter dated 16.8.52 that on release from the Jail, Janaki Ahubekar, Ex-clerk, Bench court, Mangalore left for Bombay and that his present whereabouts were not known. It is not known whether the ex-clerk has since returned to his district. ~~It would be advisable to furnish notice of release of such detenus to the Dist. Magte concerned~~ & all addresses of the Ex-clerks. However, the particulars required by the Pub (Ser) Deptt at A on p10 ante may be called for from the District Magte, South Kanara. A draft memo is submitted for apl.

18.7.52

19.7.52

18/7/52

pp 101-102 cf

(Issued as Memo No. 3064 Cls II/52-11 Home Dept/ 19.7.52

12

[CM. 3064 cts II/50]

(From the D.M., South Kanara, Ref.C.No.10673/49-MHC, d/26.7.52, and 4.8.52.)

Please see J.S's note at 'B' on p.7 ante, the Legal Dept.'s note at pp.8-9 ante and the memo. to the D.M., S.Kanara at pp99 c.f. with reference to Legal Dept.'s note at 'C' on p.9 ante.

2. The D.M. has replied that the S.D.M., Mangalore has reported that there is no correspondence in his office drawing the attention of the President, Bench Court, Mangalore to the instructions issued in 1935 by a previous Collr, that there are no records in his office (the Collr.'s office) also in which the attention of the President Sri Shankara Alva was invited to the instructions of 1935 and that Sri Sankara Alva when consulted by the S.D.M., Mangalore has stated that he was not aware of the order and that he was following the practice of handing over the cash to the clerk at the end of the day for remittance. In the circumstances reported by the D.M. and in view of Legal Dept.'s view at 'C' on p.9 ante, it does not seem possible to fasten liability on Sri Shankara Alva, the President No suit can, ~~therefore~~ it appears, be filed successfully against Sri Shankara Alva for recovery of the amount of loss of Rs.738-12-9. The position is the same with respect to the Vice-President also, though in this case he has since expired and no suit can be filed against his legal representatives.

For orders whether, ~~the recommendation of the~~ in the above circumstances, D.M. at 'X' on p. 5 above may be accepted and the amount of Rs.1147-2-0 (due from the President and the Vice President) may be treated as irrecoverable and written off the accounts. ~~Finance may see for remarks.~~ Please see also Y on p 9 ante.

2. Please see the report of the D.M., South Kanara at pp5cf, furnishing the available information with reference to the note of the Pub.(Ser.) Dept. at 'A' on p.10 ante.

~~above~~. Pub.(Ser.) may be requested to take necessary extracts from this file for further action with Ref. to A on pp 4-5 ante.

3. The file may be sent to Rev and Finance ~~and to Pub.(Ser.)~~ for remarks and to Pub (Ser) with Ref. to para 2 above.

8.8.52

9.8.1952

J.S. Vohra
9/8
Pub Ser,

Rev

Fin

(Pub (Ser) Dte)

Home
3064 C5 11-30-12
9.8.52
345

[Previous notes of this dept. on pp 10-11 ante]

With refee. to paras 2 & 3 of the Home Dept. notes on pp 12-13 above, relevant extracts may be taken for necessary action in the dept. and the file passed on to Rev

12/8/52

Rev

Rev
11.8.52
8/52
bds.

Rev. Dept

May be perused and returned to Home

28.8.52

28/8/52

Home

29/8/52

Through B.

26/8/52

Rev. No 59196 G/52-1

27.8.52

SECRETARIAT DEPT. SECRETARY TO GOVERNMENT
11 AUG 1952
59196 G
REVENUE DEPARTMENT

Public Section Dept. 25-8-52
REC. 11 AUG 1952

14

Home Dept

Please see notes of the Pub(Ser) and Rev Depts on p13 ante. The Fin Deptt. may see for remarks as already marked

A on f:

4.9.52

4.9.52

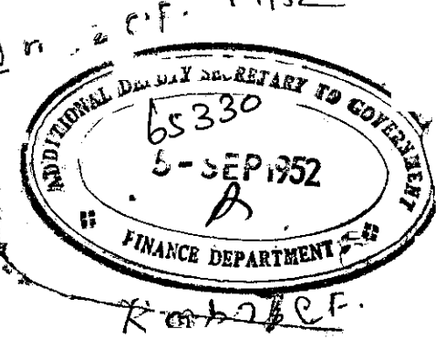
Home to

3064 Ch II/52-12

5/9/52

Finance(Accts.).

A on p 2 C.F.



K on p 2 C.F.

The file deals with the misappropriation of ~~funds~~ fine amounts from the First Class Bench Court, Mangalore by Janab Abubaker, Clerk of the Bench Court during June 1949 to Decr. 1949. The clerk did not maintain any proper record of moneys received in court, and discontinued the practice of using receipts for the fines paid by the accused and the maintenance of the cash book. Since various items of forgeries and falsification of accounts had been practised over a period of six months, the Police could not investigate all the items. Hence, the ~~Police~~ clerk was charge-sheeted ~~the clerk~~ for criminal breach of trust on three items involving Rs 60 and he was convicted to undergo R.I. for 3 months and to pay a fine of Rs 300 or in default to suffer further imprisonment for 2 months (on each of the 3 charges the sentence of imprisonment to run c) The clerk underwent imprisonment and it is stated that ~~the~~ his present whereabouts are not known.

p 2 C F

3) C F

On a close scrutiny of the records, it ~~xi~~ is found out that the total loss involved in the misappropriation comes to Rs 1,521-14-0. The investigation of the case revealed that the misappropriation was facilitated by the lamentable lack of supervision on the part of the President and the Vice-President and the failure of the then S.D.M. to conduct the quarterly inspection of the fine and property registers of the FirstClass Bench Courts. The loss sustained by the Govt. is recoverable

B on p 3 C F.

from the following persons.

Sri Sankara Alva, President	738	12	9
" M. Venkatesh Pai, Vice-President	408	5	3
Janab Abubaker, ex-Clerk	374	12	0
	1521	-14	-0

The clerk at the time of his arrest produced a sum of Rs 420 before the Police which is in the court of the S.D.M., Mangalore. The amount recoverable from the clerk is proposed to be adjusted from this amount. It is also proposed to debar him from Govt. service. Disciplinary action is also proposed against the then S.D.M., Janab S. Abdur Rahman for his failure to conduct the quarterly inspection. The Vice-President is no more and no suit can be filed now for the recovery of the amount due from him. The President has also entered on leave owing to ill-heal since July 1951 and another man has been invested with the necessary powers. As the work of the President and the Vice-President is honorary and they relieve the Stipendiary Magistrate of a lot of work, it is proposed to write off the irrecoverable loss. The amount to be written off would be Rs 1,101-14-0 after adjusting the amount produced by the clerk at the time of his arrest. In the circumstances stated, Finance may agree to the write-off of the irrecoverable loss.

18/9/52

21.9.52

Hemi

A/

The question whether any recovery can be made from the S.D.M. may be considered, before the amount is written off.

22/9/52

Fin 65330 Accts 1
22.9.52

Home Deptt

Please see the note of the Fin Deptt on Pp 14-15 above. With reference to A above, it is submitted that the Board of Revenue has once ordered

a report regarding the disciplinary action that is to be taken against the two S.D.Ms (Sri S.U.P. Nayak and Mr. Abdul Rahman) who were in charge of the Division during the period in question, for not doing the quarterly inspection of the 1st class Bench Court, Mangalore ~~during the period~~ and it is under examination in Revenue. That Dept. may therefore see for remarks regarding A on p 15 ante.

29.9.1952

Rev

28.9.52

29.9.52

TO AS

Rev Dept

This Dept previously saw the case on p 13 ante notes from 'X' on p 14 ante may be perused

2. The suggestion of Fin at 'A' on p 15 ante is examined in the (X) L.F. The file may be passed on to Home

16/10/52

14/10/52

I have decided to accept the opinion of the (X) L.F. as it amounts to double punishment

(X) same point as top file

(X) same point as top file

HOME DEPARTMENT.

Please see the Revenue Dept.'s note at pp.15-16 ante.

2. With reference to the Finance Dept.'s note at 'A' on p.15 ante, the Bd. of Rev. has since reported that the misappropriation took place between 25.7.49 and 10.11.49 when two S.D.Ms. were in charge, namely, Mr. S. Abdul Rahman from 29.11.47 to 14.8.49 and ~~[illegible]~~ 25.10.49 to

No 72628/B/52-2

22/10/52

M on p 1 of A in file

cfp A on p 1 of top file

7.12.49 and Sri S.U. Parasurama Nayak from 15.8.49 to 24.10.49. After obtaining the explanation of the two S.D.Ms. the Board has recommended that the explanation of Sri Parasurama Nayak may be accepted and the office exonerated. As regards Mr. Abdul Rahman, the Board has recommended that the pay of the Deputy Collr. may be reduced from Rs.450/- to Rs.400/- p.m. Revenue Dept. suggested, that if the Board's proposal to reduce the pay of the Deputy Collr. was approved, there was no objection to effect the recovery of loss from the Deputy Collr. and that the M.P.S.C. would have to be consulted. Revenue Secretary considers that 'M' above is pointless and that amounts to a double-punishment and has stated that the Deputy Collr. may be punished but not made financially responsible for the embezzled money.

2. If the Board's recommendation is to be accepted, Revenue propose to consult the M.P.S.C. and final orders could be passed only after consulting the Commission and taking orders in circulation. The decision in the above matter may therefore be awaited till 10.12.52. Finance may see.

30.X.1952

30-10-52

30.10.52

Homeo

3064 C/51/50-18

1.XI.52

Fin.

From (Accts)

[Pre from. notes on pp 14-15 above]

Further notes may be perused.

Finance may agree with Rev. Secy's view that if the Office is to be reduced by one stage, viz from Rs 450 to Rs 400 a further recovery from him towards the loss need not be made.

11.11.52

18

Home Deptt

Please see the note of the Fin Deptt on p 7 ante. Subtd that in the top file, the Revenue Deptt have since recommended that no action is necessary against any of the two Deputy Collectors. They have also suggested that in view of the fact that the instructions in G.O. No 2538 Law (Genl) dated 31.7.33 are not clear as to whether the quarterly inspection should be done during the quarter itself or after the end of the quarter, definite instructions may be issued in the matter. It is proposed to agree with the view of Revenue. A decision in the top file may therefore be awaited till 25.1.53 from Finance may see.

19/12/52

9.1.53

19.1.53

Not necessary to send Finance file as orders are issued

Rev dl

(Extract of notes from file C.No. 243660 Cts.II/52)

With reference to 'M' on p.2 ante regarding Bench Court, Mangalore relevant extracts may be added to the file relating to the recovery of fine amounts of the Bench Court misappropriated by the clerk and dealt with separately.

M.B.S.

M.B.S./6.1.53

V.H.R./6.1.53.

(True extracts) A. Ramaswamy Iyengar
Superintendent

Please see the extract from the peta. of Sri A. Kamtappa, Mangalore at p 115 CF and the extract of notes above

[p.T.6]

With ref to the allegation at M on p 115 ante it is submitted that Sri Sankara Alva has not been reappointed as President, Bench Court, Mangalore and instead one Sri Pejavar Vyasa Rao has been appointed as President I class Bench court, Mangalore vide G.O. No. 2646 Home Dated 5.9.52. Sri M.V. Pai (Sri Venkatesh Pai) referred to in the petition was formerly the Vice President of the Bench Court. He expired towards the end of December 1954 and the qn of his renomination did not therefore arise.

As regards the question of recovery from the former President & Vice President of the Bench on account of part of the loss to Govt on account of the misappropriation of the fine amount by the clerk of the Bench court, in the circumstances stated in the note at para 2 on p 12 ante, it was considered that no suit could be successfully filed against the said President and Vice President for recovery of any amount towards the loss. At the instance of the Finance Deptt, the qn of making recoveries from the Sri Pai in charge during the period in qn is being pursued separately in a file in the Revenue Deptt.

With ref to S on p 115 ante it is submitted that Srimathi E.L. Pereira was appointed as Hony Magte vide G.O. No. 2748 Home Dated 13.9.52. Please see particulars of the nominee at p 3 of (H). Sri H.C. Pinto was appointed as a Hony Magte vide G.O. No. 2428 Home Dated 19.8.52. Particulars regarding him will be found at p 23 of (F). It will be seen that both these persons are by their

qualifications suitable for appointment as Army Magistrates

In the circumstances stated above no action seems necessary on the point on p 115 C ante

A decision in the file referred to at A on p 19 ante may be awaited till 30.1.1953.

A/20.1.1953

J.S 1/5/53 21/1/53

A2
20.1.53
20/1/53

Please see the D.O. orders above. The file referred to at A on p 19 ante has since been transferred by the Rev Deptt. to this Deptt. for taking orders in circulating and consulting the Commn. regarding the ~~proposed~~ punishment proposed to be imposed on the two Dy Colrs concerned. As it will take some time more to arrive at a decision in the matter, this may lie over till 1-3-53.

A/3.2.1953

A2
3.2.53
3/2/53

Please see the lie over orders above. It will take some time more to arrive at a decision regarding the punishment to be imposed on the Deputy Collrs referred to above. This file may continue to lie over till 25-5-1953.

A2
1.3.53
2/3/53

2/3

The file referred to at X above has been rcvd. and it is being sent to Pub (Ser) to-day. A decision

in that file may be awaited till 20-X-53.

25/9/53

25-9-53

Do the file referred to at A on p 19 ante need at X on p 20 ante the same?

26-9-53

Subd. yes.

26.9.53.

26.9.53

I do not think that there is any proposal now to recover the loss from the S.D.Os concerned. Anyway may lie over till 20.10.53 awaiting final orders in that file

26/9/53

Subd. In the file referred to at X on p 20 ante a final decision has not yet been arrived at. The Board has been addressed in this matter and its reply is awaited. The may continue to lie over till 1.12.53.

3/XI/53

4.11.53

4/11/53

A final decision has not been reached in the file referred to at A on p 19 ante. This may therefore continue to lie over till 1-5-54

25/11/54

25.1.54

27.1.13

This case relates to the misappropriation of fine amounts to the extent of Rs. 1521-14-0 in the First Class Bench Court, Mangalore by Sri Abubaker clerk of that court when he was working as Head Clerk of the Bench Court. The clerk at the time of arrest produced a sum of Rs. 420/- before the police which is in the court of the S.D.M., Mangalore. The High Court was of the opinion that the lack of supervision on the part of the then President and Vice President of the Bench Court and negligence on the part of the then Sub Divisional Magistrates in not having inspected the fine registers had led to the misappropriation. After examining all aspects of the case, it was considered that liability for the loss of fine amount collected could not be fixed on the President and the Vice President and it was therefore proposed to write off the amount of Rs. 1,147-2-0 as irrecoverable as proposed by the D.M. Simultaneously disciplinary action was also taken by the Board of Revenue separately on the S.D.Ms. concerned for their failure to inspect the registers and the question whether the loss to Govt. could also be made good by recovering it from the concerned S.D.M. was also considered. Of the two S.D.Ms. Sri Abdul Rahman and Sri S.D. Parasuram Nayak, who were in charge of the division during the period from 25.7.1949 to 10.11.1949, in which the amount was misappropriated, the Board recommended:

(1) that Sri Parasuram Nayak may be exonerated of the charge; and

(2) that the pay of Sri Abdul Rahman may be reduced by one stage i.e., from Rs.450/- to Rs. 400/-, as he was found guilty on the charge of negligence to inspect the registers properly.

Sri Parasuram Nayak was exonerated of the charge as recommended by the Board. As regards Abdur Rahman the Govt. accepted the recommendation of the

Board of Revenue provisionally and asked the Board to follow the procedure prescribed in the C.C.A. Rules. But before Board could take further action in the matter, as Sri Abdul Rahman was permanently allotted to the Mysore State, necessary extracts from the file were forwarded to the Govt. of Mysore for such action against the S.D.M. as they might wish to take in the matter.

This file is now concerned with the question as to whether the irrecoverable loss of Rs. 1147-2-0 may be ordered to be written off the accounts. The question of recovering the amount from the President and Vice President has already been considered and dropped. The clerk had already undergone imprisonment on the charge of misappropriation and he was dismissed from service. His whereabouts are also not known. Thus there is no possibility of recovery of the amount from him also. As regards Sri Abdul Rahman, it is submitted that this Govt. provisionally agreed with the Board for the award of the punishment of reduction in the time scale of pay by one stage, and the punishment of recovery from pay of whole or part of any pecuniary loss caused to Govt. by negligence, is a higher punishment than the one recommended by the Board and that this Govt. have now no control over the officer in question. In these circumstances, the question of recovering the amount from the S.D.M. also does not arise. It is therefore for consideration whether the amount of Rs. 1,147-2-0, still to be recovered, may be ordered to be written off the accounts as irrecoverable loss.

Subject to approval, a draft order is submitted. Public (Services) and Finance may see

before issue.

15/9/54

15.9.54

16/9/54

DS

In the circumstances of this case, there appears to be no alternative except to sanction the writing off of the amount involved

H.
17 Sept 54.

DS
Pub(Ser)
I cu

Public (Ser) / Fin

(Seen on p 13 ante)

Home uo. 3064 CIS II/50-
20.9.54.

The notes of Home from XX on p 22 ante and the draft order below may be perused and the file passed on to Finance

22.5.54

24/9/54

25/9/54

ASSISTANT SECRETARY TO GOVERNMENT
3994
21 SEP
SECRETARIAT

Finance (Accounts)

[Finance last saw on p. 17 above]

Pub(Ser B) uo. 3994/54
27.9.54.

The draft order below may be accepted

1.10.54

9/10/54

ADDITIONAL DEPUTY SECRETARY TO
28 SEP 1954
100775
FINANCE DEPARTMENT

Home

Home dept. Fin. u. o.
100775 Accts/54
11.10.54

The draft order may now issue.

11.10.54

ASSISTANT SECRETARY TO GOVERNMENT
11 OCT 1954
132596
HOME DEPARTMENT

CNO 101231 CB II/54

Home Dept:

Embezzlement - South Kanara Dt: First class Bench court - Misappro priation of fine amount.

From the A.G. Madras, Letter No T.M/SN2/54-55/380 dated 27-8-55.

The A.G, Madras has forwarded to Govt: for information and remarks, if any, a copy of the draft paragraph proposed on the above subject for inclusion in the Appropriation Accounts of the Govt: of Madras for 1953-54 II half and the Audit report thereon It is stated in the draft paragraph that the amount of money misappropriated is Rs 1,567, and the sum of Rs 420/- seized from the clerk at the time of his arrest was adjusted towards the amount misappropriated and the balance of Rs 1,147 was written off by Govt.

2. It is seen from the records with the Govt: that in the course of inspection of the registers etc of the First class Bench Court, Mangalore in Dec'54

2/-

an embezzlement of Rs 1,521-14-0 being the fine amounts handed over to Sri Abubaker, clerk, First class Bench Court, Mangalore was detected. It was proposed to recover the loss sustained by Govt as follows:

	Rs - as ps
Sri Sanhara Alva, President	738-12-19
" M. Venkatesh Pai, Vice President	408-5-3
" Abubaker, ex. clerk	374-12-0
	1,521-14-0

But after examing all aspects of the case, it was considered that liability for the loss of fine amount collected could not be fixed on the President and the Vice President and it was therefore proposed to write off the amount of Rs 1,147-2-0 as irrecoverable. Orders were accordingly issued in Go RT NO 3013, Home dated 12.10.54.

3 It appears unnecessary to ask the A.G to explain the discrepancy when we have all the papers with us. The position may be explained to him. Subject to orders a draft memo is submitted for approval Finance may see before issue

DB. 11/10/55

The Off may issue after perusal by Fin.

This may be issued after perusal by Fin.

2

There is nothing to indicate that out of Rs 420/- seized from the clerk, a sum of Rs 374/12 only was actually adjusted towards the settlement of the fine exacted; also what was done with the balance. It has to be presumed that the adjustment was made and that the balance was also credited to Govt. in part payment of the Compounding fee of Rs 900/- imposed on the clerk.

Rh
3.10.55

Before we call H.C. to make comments, should we not be sure how the Rs 420/- was accounted for?

Rh
3. 10 55

w.r.t. the orders above, a draft memo is submitted for approval

Rh
4.10.55

H/10/55

(Issued as Memo.No.101231 Cts.II/55-1 d/ 4-10-55)
From the High Court, ROC.No.6429/55-D1 d/ 18-11-55.
From the Dist. Magistrate. Roc.No.2583/55-A d/ 21-11-55.

The District Magistrate. South Kanara has furnished the following particulars as to how the sum of Rs.420/- produced by the ex-clerk Sri Abubacker at the time of his arrest was accounted for.

I.T.D.

28

(i) Credit to the Treasury with chalan No.968 d/ 1-7-52 towards the amounts of fine misappropriated by the ex-clerk	Rs.126/-
(ii) Credited to the Treasury with chalan No.105 d/ 25-11-54 towards the amount of fine misappropriated by ex-clerk	Rs. 12/-
(iii) Credited to the Treasury with chalan No.106 dated 25-11-54 to the head 'Criminal Courts Deposits'	Rs.282/-
Total	Rs.420/-

A on p 11 of

The third item above was credited to Criminal Courts Deposits as there was no proof that the ex-clerk had misappropriated the other amounts of fine and value of properties (Rs.1147-2-0 in the aggregate), which were ordered to be written off the accounts in G.O.Rt.No.3013 dated 12-10-54.

p 115 of (H)

The D.M. has furnished only ~~vouchers for~~ the details and heads of account to which the amount Rs.420/- was credited to the treasury but has not explained also how the sum of Rs.420/- seized from the clerk at the time of his arrest was adjusted. The amount of money misappropriated in this case as per the records with the Govt. is Rs.1521-14-0, while the figures according to the Accountant General's Audit Report is Rs.1567-0-0. As a sum of Rs.1147-2-0 was ordered to be written off the accounts in G.O.Rt.3013, dated 12-10-54 without giving the details, the D.M. appears to have credited the entire amount of Rs.420/- received from the clerk at the time of his arrest, to the treasury. The point now for clarification is whether the misappropriated amount is Rs.1521-14-0 or Rs.1567-0-0 as pointed out by the A.G. This may be done by a reference to the D.M.

cf A ... p 11 ... 2.

B on p 2 n f of (H) 10-3-54 12-11-54

M on p 1 of

p 115 of (H)

Please see below B

P.T.O

Draft Memo. subd. is for approval.

*removed & kept below.

2.12.55
2/12/55

The A.G. has given his authority for this draft para on page 3 c/f. It is clear that because a sum of Rs 1147/2/- was written off by the Govt; also a sum of Rs 420/- has been seized from the clerk at the time of arrest towards the defalcated amount, this total is Rs 1567/2 (rounded to Rs 1568/-). The A.G's para does not require any clarification but only a correction as indicated below.

A

2/ The total amount misappropriated is Rs 1521/14/-. How this amount should be recovered is discussed in the letter at pp 77-78 c/f (A). The amounts recoverable from the President + via president (viz Rs 738-12-9 + Rs 408-5-3) totalled to Rs 1147-2-0 and the Govt waived this amount as irrecoverable.

3/ As against Rs 374/12/- recoverable from Abubakar, there was a sum of Rs 420/- seized from him. It was expected that the sum of Rs 374/12/- would be adjusted towards the fine amount but it is seen that only Rs 138/- was so credited. Arrangements should be made now to credit the balance also to this fine amount, if this is possible at this distance of time. It is observed that even after the adjustment is made, there will remain a sum of Rs 45/4/- in the Cr. Cts deposit account.

4. Please examine how the Cr. Cts deposits can be disposed and what adjustments are now possible.

4.12.55

With ref. to para 4 of A.S's. query above:

Under rules 271(4)(ii)(d) read with 271(1) of

(X) pp 145-146 of the Madras Financial Code Vol I. (Book not put up.)

Financial Code Vol.I, all deposits unclaimed for more than three complete financial years, should be credited to the Government at the close of March in each year. The age of a deposit or the balance of a deposit is being reckoned from the date of the original ~~date of~~ deposit.

2. It will be seen from 'X' on p.4 ante, that only Rs.138 (126 + 12) out of the sum of Rs.420/- seized from the clerk Sri Abubaker was credited towards the fine amount of Rs.374-12-0 misappropriated by him and the balance of Rs.282/- (Rs. 420 - 138) has been credited to the treasury on 25-11-54 to the head "Criminal Court Deposits". A sum of Rs.236-12-0 still remains to be recovered from him as per details below:

Total amount misappropriated	Rs.1,521-14-0	Seized from the Clerk	Rs.420-0
Amount written off	Rs.1,147- 2-0	Credited to Govt. so far	Rs.138-0
Amount to be recovered from the Clerk	Rs. 374-12-0		
Amount recovered	Rs. 138- 0-0		
Amount still due	Rs. 236-12-0.	Balance kept under Crl.Court Deposits	Rs. 282-0

The sum of Rs.236-12-0 has to be adjusted from the Criminal Court Deposits of Rs.282 and the balance of Rs.45-4-0 (Rs.282/- - 236-12-0) will have to be refunded to the clerk if and when he makes a claim. This course is possible since three years have not yet passed from 25-11-1954. It also may be noted that the party has not applied for any refund.

3. It is now for orders whether the sum of Rs.236-12-0 yet due from the ex-clerk Sri Abubaker may be adjusted from the sum of Rs.282/- kept under "Criminal Court Deposits" and the balance of Rs.45-4-0 may ~~be refunded to the party in due course if he makes~~ continue to be kept in deposit till the party makes a claim for it. When his rights to the refund may be cea

4. With reference to paras 1-3 of Asst. Secretary's query it is subd. that the position will be explained

31/17

to A.G. Madras, after orders are passed on 'A' ~~above~~ on p6 ante

5. Finance ~~and Law~~ may see for remarks.

20/12/55 DSB 20/12/55

21.12.55 Addl Secy.

Finance

22 12 55

Home u-o 101231 Cts II/55-3

Fin (Auts.)

The notes from p.1 above may be perused.

The proposal at 'A' on p.6 above may be agreed to.

31/12 Addl 31.12.55

2.1.56 Home

Fin U.O 112899 Auds 2.1.56.

Home (Cts.II)Dent.

The Finance Department has agreed with the proposal at 'A' on p.6 ante. A draft ~~letter~~ memo to D.M. is subd. for approval. With reference to para 4 on pp 6-7 above, a copy of the Memo may be sent to the A.G. Madras.

10.1.5- DSB 12/1/56

Tle.1.56 Addl Secy.

17.1.56

17?

pp17-18 cf. Issued as Memo No 10123/Cts II/55-4 dated 18.1.56

p25 cf- From the Accountant General A&E. A A No.60-3/SR/55-56/5 Dt- 3.4.56.

Please see the Memo. on pp.17-18 c.f. and the letter from the A.G., Madras on p.25 c.f.

The A.G., Madras has stated that the D.M. South Kanara has since reported that Rs.12/- due in C.C. 1741/49 was not included in the total amount of Rs.1521-14-0, misappropriated by the Clerk or the misappropriation of this item of Rs.12/- came to light when the accused produced a M.O. receipt for having remitted the amount to the Court and the total amount of defalcation therefore comes to Rs.1533-14-0 or Rs.1534/- and not Rs.1,521-14-0 or 1522/- as stated in the Memo.on pp.17-18 c.f.

The A.G., has requested that either the orders to write off in G.O.No.3013, Home, dated 12-10-1954 may be revised or paragraph 2 of the Memo.on pp.17-18 c.f. may be modified.

It is not clear why the amount of Rs.12/- now detected should also be included in the total amount misappropriated, if the party has produced the M.O. receipt for having remitted the amount to the Court. The A.G., has suggested that in view of the latest position, the orders to write off issued in G.O.Ms.No.3013, Home, dated 12-10-1954 would appear to require revision. If, as stated by the D.M., the amount of Rs.12/- should be included in the total amount misappropriated, it appears that the amount should be adjusted towards the balance of Rs.282/- belonging to Sri Abubacker kept under Criminal Court deposit and credited to Govt. along with the sum of Rs.236-12-0 (ordered to be recovered in memo on pp17-18c/f) The position may be got clarified from the D.M., South Kanara.

A draft memo. is submitted for approval.

23/4/56
ESD
23/4/56

CNo. 101231 ch II/55

332

(Issued as Memo.No.101231 Cts.II/55-5 dated 26-4-1956)
From the District Magistrate, South Kanara, D.Dis.No.686/56, dated 25-5-1956.

Please see the reply from the District Magistrate, South Kanara on p.31 c.f. to this Department's memo. on p.29 c.f.

With reference to orders issued in para 2 of this Department's Memo. on pp.17-18 c.f., the D.M. has reported that the amount of Rs.236-12-0 had been adjusted to XXI Administration of Justice-Govt Fines, by the Sub-Treasury Officer, Mangalore as per Voucher No.2 dated 13-3-56 and included in the Sub-Treasury Account for March 1956.

2. In the circumstances, stated by the Dt. Magistrate in para 2 of his letter on p.31 c.f., neither the orders of write off in G.O.Rt.No.3013, dated 12-10-54 nor paragraph 2 of the Government Memo. dated 18-1-56 require revision. The position set out at 'K' in this Department Memo on p.17 c.f. will stand and require no revision. The A.G., Madras may be informed of the fact and requested to amend the draft paragraph for inclusion in the Audit Report on the appropriation Accounts of 1953-54 (II half) suitably with reference to the particulars furnished in this Department's memo. dated 18-1-56 on p.17 c.f. A draft memo. to A.G. Madras is submitted for approval. Finance may see before issue.

31.5.56
31/5/56

Fin (Accts) Dept

Home U.O 101231 ch II 55-6
2.6.56

(Previous Finance note on page 7 above)

Further note from page 7 above and the draft memo. below may be perused and the case returned to Home

DEPUTY SECRETARY TO GOVERNMENT
2-JUN 1956
FINANCE DEPT

8/6/56 9.6.56

9.6.56 Home

Fin U.O 574/Accts/56

DEPUTY TO GOVERNMENT

671 DA

Home (Cts II) Depl.

The draft memo below which has been accepted by Finance may now issue. After issue the papers may be added to the G.O. at (H)

13/6/56

Memorandum

[ero 76564 cts II/56]

Home (Cts.II)Dept.

Embezzlement - South Kanara Dist. - First Class Bench Court - Mangalore - Abubacker Sri U. - Ex-Clerk, Misappropriation of fine amount.

From the A.G., Madras No.AA-60-3/XII/55-56/9 d/4-7-56.

The A.G. Madras has reported that on a reference to the D.M., South Kanara whether the total amount of Rs.1,521-14-0 said to have been misappropriated by the ex-clerk should be revised as Rs.1,533-14-0 in view of the subsequent discovery of the defalcation to the extent of Rs.12/-, it was stated by the D.M. that the total amount defalcated should be Rs.1,533-14-0 as the item of Rs.12/- came to light only when the accused (not the ex-clerk Abubacker, but the accused in B.C.No.1741/45 produced M.O. receipt for having remitted the amount to the Court. In the circumstances, the A.G. considers that the total amount defalcated has to be corrected as Rs.1533-14-0 and the A.G. has revised the draft paragraph for inclusion in the Audit Report on the appropriation account of 1954-55, accordingly.

2. In accordance with the facts in Govt. Memo.on pp.133-34 (H) and in the light of the observations above, the A.G. has set out the present position as detailed below:-

Total amount misappropriated	Rs.1533-14- 0.
— Amount written off	1,147-2- 0.
Amount to be recovered.	386-12- 0.
Amount recovered	374-12-0.
Balance to be recovered from the clerk	12- 0- 0

Now the A.G. has suggested that the amount of Rs.12/- may be adjusted from the balance of Rs.45-4-0 kept in deposit, if details are available The amount Rs.236-12-0 from out of the amount of 282 in Criminal Court deposit has been adjusted and still a balance of Rs.45-4-0 is kept under criminal court deposit. But though the amount of Rs.12/- referred to in para 1 above, has already been adjusted from out of the amount of Rs.420/- seized from the clerk at the time of his

P.T.O

arrest as per details in para (ii) at p. 131 c.f. of (H)
As the total amount misappropriated has gone upto
Rs.1,533--14-0 from Rs.1,521-14-0, the difference of
Rs.12/-has to be recovered. ~~along with the sum of~~
~~Rs.336-12-0 ordered to be recovered in memo on p 133-134 c/f~~
~~of (H)~~. In view of the fact that still a sum of Rs.45-4-0
is kept under court ~~fees~~ deposit and that the party has
not applied for any refund, the course suggested by A.G.
is possible. It is for orders whether the D.M. may be
asked to adjust a further sum of Rs.12/- from the sum
of Rs.45-4-0 kept in the Criminal Courts' deposit.

Finance may see for remarks.

18/7/52
ESB
19/7/52

If the amount of Rs 12
has already been adjusted
from out of the amount Rs 420
seized from the clerk
as stated at A the page
where is the necessity to
adjust the same
a second time over from the
balance of the amount seized
as stated at B above?

Rs 420 - 374-12-0
= Rs 45-4-0

20/7/52

With reference to A on p 1 ante, it is submitted
that the sum of Rs 12/- referred to ~~in para 4 of~~,
~~it~~ is not the sum recovered from the ex-clerk,
but has been ~~merely~~ shown in the (ii) of
voucher ~~in para (ii)~~ at p 131 c/f of (H).
The D.M. has wrongly stated that the
amount has been adjusted from the amount
seized from the ex-clerk. The sum of Rs 420/-
referred to by the D.M at X on p 131 c/f (H)

30134
12-10-52

S on p 145 c/f

represents the amount seized from the ex-clerk Sri U. Ambadker. A sum Rs 374-12-0 was recovered from the amount and a sum of Rs 45-4-0 is still kept in Criminal Court Deposit. The sum of Rs 374-12-0 was arrived at by deduction of the written off amount (Rs 1,147-2-0) from the total amount misappropriated (Rs 1,521-14-0) by the accused. The sum of Rs 12/- referred to is not included either in the misappropriated amount or in the amount ordered to be recovered as it has been brought to notice only now. Thus the sum of Rs 374-12 ordered to be recovered does not include this new sum of Rs 12/-. Since the total amount of defalcation has increased by this sum of Rs 12/-, the amount has either to be recovered from the accused or written off. Since the party's money (Rs 45-4 is kept under criminal court deposit, this sum of Rs 12/- also may be recovered from that amount as suggested by A.G., Madras. The D.M. may be asked to recover a further sum of Rs 12/- from the sum of Rs 45-4-0, kept in criminal court deposit. The A.G's draft paragraph for inclusion in the Audit Report on the Appropriation Accounts of 1954-55 on p 3 of may be accepted

P.T.O

Finance may see for remarks.

2/7.56
31/7/56

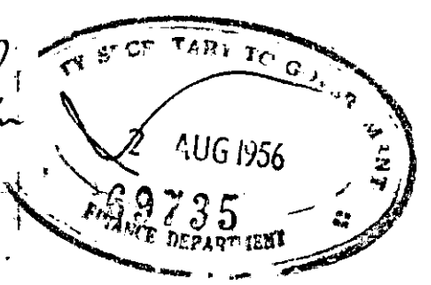
Fmi

Home No. 76564 Ch II/56-1
2.8.66.

Fin (Accts.)

The notes on p.p. 1-4 above may be perused

'A' on the post-page may be agreed to.



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10/8/56

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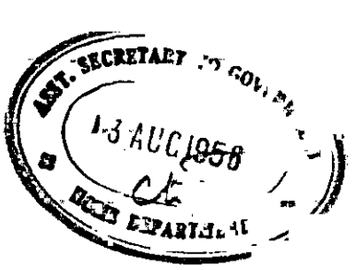
11/8/56. Asst

Fin U.O 69735 Audit/m
11-8-56

Home (Estt II) Dept.

Please see ~~the~~ Finance Dept's note above. With reference to A on p 3 ante, a draft memo to the D.M. (Audit), South Kanara, is submitted below for approval. Since the Accountant General Madras has revised the draft paragraph for inclusion in the Audit Report on the appropriation Accounts of 1954-55 and sent a copy of the revised paragraph to Govt. for information, no further action is called for in the matter. After issue of the memo the papers may be added to the G.O at (H)



para 4, p 2 ante & p 3 ante
9/8/56

24/8/56
24/8/56